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Is all moral responsibility ultimately individual responsibility?

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Declaration

The work presented in this thesis is my own.

Russell Child

25th August 2017

Abstract

The way people naturally talk about groups suggests they can be held morally responsible in their own right. People speak of blaming the banks for the global financial crisis while praising Oxfam for its charitable endeavours. In spite of this there is a clear tendency in contemporary philosophy to limit moral responsibility to individuals, thereby denying the existence and relevance of collective moral responsibility in general and the moral responsibility of groups like corporations, states and international institutions in particular. In this thesis I develop an account of responsibility that applies to both collectives and individuals. In particular I focus on developing an account of collective responsibility that is non-distributive. My account does not deny individual responsibility. Nor does it seek to replace individualistic accounts. It is intended to provide an additional layer of moral responsibility. I am particularly interested in scenarios where the harms are mediated by social and institutional structures leading to structural injustice occurring when organisations, institutions or governments discriminate directly or implicitly against certain groups of people to limit their rights. This is important because some of the most serious contemporary harms result from structural injustice, which is a form of injustice where the harms are not traceable to individual wrongdoers. Hence the need for a collectivist account of moral responsibility. Exclusively individualistic accounts of structural injustice do not fully incorporate the many other responsible collectives like states, international institutions and transnational corporations. I also consider the distinction between guilt and responsibility. Some theorists have a favourable view of guilt as it applies to collectives and/or individuals arguing that it has an instrumental value. My account of collective responsibility is sympathetic to this view of guilt but only as it applies to individuals. In which case the issue of distribution does not arise for guilt.

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Introduction

People naturally speak about the character or personality of groups and take morally evaluative positions with regard to them. We speak in ordinary language about blaming the banks for the global financial crisis or praising Oxfam for its charitable work. We talk about what the teaching profession wants, what the government intends, what Baby Boomers value and what the financial markets expect. There is an attraction to the idea that groups can be held morally responsible in their own right.

Nonetheless, there is a clear tendency in contemporary philosophy to limit moral responsibility to individuals, thus denying the existence and relevance of collective moral responsibility in general and the moral responsibility of groups like corporations in particular (Velasquez 1983, Wolf 1985). This individualism contrasts with a notion of collective moral responsibility that associates causal responsibility and blameworthiness or praiseworthiness in groups, locating the source of moral responsibility in the collective actions taken by these groups qua groups (Feinberg 1968, French 1979, Gilbert 2002, List and Pettit 2011).

According to this collectivist way of thinking, we can and should blame or praise groups qua groups for their actions when appropriate. Collectivists view groups, as distinct from their individual members, as being collectively responsible for their actions. Such intuitions are a form of philosophical holism where the characteristics of

the group qua group, are distinct from the characteristics of its individual parts and the group has relevance in the world. This means the group has the capacity to act and the consequences of those actions are widely felt. The holistic¹ view rejects the idea that we can explain everything about an entity by analysing its component parts. The actions of the group are not entirely derivative of or reducible to the individuals who comprise it.

Individualists view the collectivist approach to moral responsibility as highly contentious, arguing that it violates principles of individual autonomy. They worry about the fairness of ascribing collective moral responsibility to individuals who do not themselves directly cause harm² or who do not purposefully bring about harm. They are also sceptical about the possibility of both group intentions and genuinely collective actions. Individualists interpret talk about the character and moral evaluation of groups as nothing more than figures of speech. What we really mean, or really ought to mean, is that the individual group members are responsible for their actions. Groups arise from a series of agreements between individuals and facts about those groups can be reduced to facts about those individuals. According to this view, it makes no sense to blame corporations, international financial institutions or states for the harm they do and/or cause (or praise them for the beneficial consequences of their actions.) Instead we should identify the responsible individuals and if praise or blame is justifiable in a particular case this is because some individual deserves it.

This debate about collective moral responsibility is important because groups have the capacity to cause significant, widespread and lasting harm. This is an example of

¹The terms holism/collectivism and holistic/collectivist are used interchangeably.

²I use the comparative account's definition of harm as follows: an event harms someone if and only if they are worse off than they would otherwise have been (e.g. Joel Feinberg (1984) *Harm to Others: The Moral Limits of the Criminal Law*, Oxford: Oxford University Press 34). There are competing accounts of harm. I do not consider these further.

structural injustice because the constraints people experience, as individuals or as members of groups, result from the actions of many others acting as groups, intentionally or otherwise. Examples include the on-going scandal of sexual abuse involving the Catholic Church, the role of the banks and other financial institutions in causing the global financial crisis in 2008, the *Herald of Free Enterprise* disaster in 1987 and the permanent damage done to the environment as a result of the actions of transnational corporations.

In this thesis I am particularly interested in scenarios where harms are mediated by social and institutional structures leading to structural injustice. I refer to Iris Marion Young's important contribution to the debate about responsibility for justice.³ Young's individualistic account excludes many other responsible groups like states, international institutions and transnational corporations. While her approach draws out some important features of the problem of structural injustice, it obfuscates others.

The production of structural injustices in the absence of clear individual causal and/or moral responsibility suggests a role for groups and also, therefore, for collective responsibility. Since these important structural harms cannot be made sense of in solely individualistic terms I aim to develop an account of non-distributive collective moral responsibility. This is the most plausible notion of responsibility that deals with moral problems such as the harm caused by complex social interactions that cannot be dealt with at an individual level.

The debate between the contrasting approaches to moral responsibility tends to be presented as a binary choice between competing standpoints. My approach will be to

³Young, I. M., (2013) *Responsibility for Justice* Oxford: Oxford University Press

treat this as a false dichotomy. In this thesis I aim to develop an account of responsibility, which applies to both collectives and individuals. My account is intended to provide a layer of moral responsibility in addition to individualistic accounts like Young's.

There is also a debate about how we should think about our responsibility in relation to structural injustice, in particular with regard to the distinction between guilt and responsibility. Some theorists have a favourable view of guilt as it applies to groups and/or individuals arguing that guilt has an instrumental value as a spur to reparative action (Kutz 2000, Gilbert 2002, Nussbaum 2013). Others are less sympathetic to the idea of collective guilt and/or to the efficacy of ascriptions of guilt *tout court* (Arendt 1954/1994, Arendt 1987, Feinberg 1968, Young 2013b). My account of collective responsibility accepts that guilt can have an instrumental value though I would like to confine guilt to individuals. In which case the issue of distribution does not arise for guilt.

I proceed as follows. In Chapter 2 I provide a detailed classification of groups relevant to my account. I discuss Young's account of structural injustice (Young 2013e). I explain why her individualistic approach to responsibility for justice does not fully address the problem of structural injustice. In Chapter 3 I explain the notion of moral responsibility and present some important individualistic accounts (Velasquez 1983, Wolf 1985, Wolf 2013, Miller 2010, Miller 2011). I also analyse the individualistic approach to complex cases of co-ordinated action. In Chapter 4 I outline Joel Feinberg's canonical taxonomy of attributions of collective moral responsibility (Feinberg 1968). I also present the collectivist approach to complex cases of co-

ordinated action, which can be interpreted as a reply to the individualistic approach. In Chapter 5 I evaluate arguments regarding the coherence of collective guilt and collective guilt feelings (Gilbert 2002). I then discuss the instrumental value of guilt. I develop an account that accepts guilt's instrumental value but only insofar as it applies to individuals. In Chapter 6 I discuss and evaluate Young's liability and social connection models of responsibility with reference to her arguments concerning responsibility across borders in cases of global structural injustice (Young 2013d, Young 2013f). I explain why these models do not fully address the problems of global structural injustice she identifies. I develop an alternative account of responsibility that applies to collectives and to individuals. This account will include a notion of non-distributive responsibility that does the institutional work rectifying structural injustice that Young's account denies. Chapter 7 I conclude that not all responsibility is ultimately individual responsibility. I also recommend two connected areas for further research.

Structural Injustice as the Subject of Responsibility

In this chapter I explain in detail the notion of structural injustice with reference to Iris Marion Young's analysis of structural injustice as the subject of responsibility (Young 2013e). In Section 2.1 I explicate Young's notion of structural injustice. In Section 2.2 I explain the classification of groups relevant to my account. In Section 2.3 I analyse Young's arguments concerning structure as the subject of responsibility introducing her liability and social connection models of responsibility for justice.

2.1 What is structural injustice?

Some of the most serious, widespread and lasting harm is caused by structural injustice. The harms that result from structural injustices are more than mere bad luck or straightforward material disadvantage, though neither are they necessarily caused by the actions of particular individuals or policies. Serious harms like domination, exploitation and oppression are structural because the constraints individuals experience result from the actions of many others acting as groups, intentionally or otherwise. Many of the threats people facing structural injustice experience arise from impersonal political, economic, social and bureaucratic forces. Young tells the detailed story of a lone parent facing the prospect of homelessness due to shortages of

affordable housing as one example of structural injustice.⁴ In Young's account, structural injustice is a specific kind of moral wrong that is distinct from wrongs that are traceable to specific individual actions or policies (Young 2013e). She characterises structural injustice as follows:

“Structural injustice... exists when social processes put large groups of persons under systematic threat of domination or deprivation of the means to develop and exercise their capacities at the same time that these processes enable others to dominate or to have a wide range of opportunities for developing and exercising capacities available to them.”⁵

The harm caused by structural injustice contrasts with the harm caused by the wrongs of individual interaction. In cases of structural injustice an individual experiences injustice but no particular individual she encounters does her a specific wrong. The individuals she deals with act within the law according to prevailing norms and rules. Some laws do contribute to her plight but none can be singled out as the major cause. Nor is it the case that her plight is due to sheer bad luck.

Structural harm is the harm that is caused by structural injustice. In cases of structural injustice, the harms are mediated by social and institutional structures. Structural injustice can also refer to forms of injustice that are expressed in the practice of social and political institutions. As well as individuals, groups can also be harmed by structural injustice. Racism is a further example of structural injustice in addition to Young's example of the threat of homelessness:

⁴Young, I. M., (2013e): 43-44, *passim*

⁵*Ibid.* 52

“The most common mistake people make when talking about racism (white supremacy) is to think of it as a problem of personal prejudices and individual acts of discrimination. They do not see it is a system, a web of interlocking, reinforcing institutions: political, economic, social, cultural, legal, military, educational, all our institutions. As a system, racism affects every aspect of life in a country.

By not understanding that racism is structural, we guarantee it will continue. For example, racist police behaviour is often reduced to “a few bad apples” who need to be removed, instead of seeing that it can be found in police departments everywhere. It reflects and sustains the existing power relations throughout society.”⁶

Structural injustice occurs when organisations, institutions or governments discriminate directly or implicitly against certain groups of people to limit their rights. One example of structural injustice that operates in this way is institutional racism defined as:

“The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount

⁶Elizabeth ‘Bertita’ Martinez *What is White Supremacy?* Available online at https://collectiveliberation.org/wp-content/uploads/2013/01/What_Is_White_Supremacy_Martinez.pdf Accessed on 27.05.17

to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.”⁷

Institutional racism can also take the form of racist acts committed by individuals or groups governed by norms that support racist thoughts and instigate active racism. Individual acts of racism such as a racist speech are more easily identifiable because of their overt nature whereas institutional racism is less easy to spot because of its subtle nature.

Structural injustice does not result primarily from the choices and actions of those individuals or groups who are vulnerable to structural harm. They differ from those who are less vulnerable to structural harm because they are differently situated in the range of options available to them and in the nature of the constraints they face. The issue of social justice that arises from this analysis is whether it is right that anyone should be in a position where they are vulnerable to structural harm. Individuals are differently vulnerable to structural harm because they act in the context of complex social, economic and political processes where there is an asymmetrical distribution of power. This means there are different degrees of control over their circumstances and varying ranges of options available to them. The sources of the generalised circumstance of being vulnerable to a harm or wrong are multiple, large scale and relatively long term. Many laws and policies and the actions of thousands of individuals acting in line with generally accepted norms and values contribute to producing those circumstances.

⁷The Stephen Lawrence Enquiry (1999), also known as the Macpherson report, available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf Accessed on 27/10/16 Paragraph 6.34. The Macpherson report was published in February 1999 following allegations of racism, incompetence and corruption against Metropolitan police officers investigating the murder of Stephen Lawrence. The report delivered a damning assessment of the institutional racism within the Metropolitan police and policing generally.

Structural injustice is referred to as a process because a notion of social structure explains patterns and circumstances that persist through time. As part of this process some people do things that are individually wrong, for example they break the law, or deceive, or behave in ruthless ways towards others while many others try to be decent and law-abiding as they pursue their own interests. The process produces structural injustice because in it some people's options are unfairly constrained while others derive significant benefits from the same process that harms others. In which case, many judgements of social injustices are caused by structural injustice. Social structure refers to the accumulated outcomes of the actions of many individuals pursuing their own projects uncoordinated with others. The combination of actions affects the conditions of the actions of others often leading to outcomes that are not intended by any of the participating agents. I return to the significance of intentions in Section 2.2 below and in Chapters 5 and 6.

Structure as the subject of justice is concerned with the vulnerabilities to domination and deprivation that some people experience due to the social structural processes so described. Young draws on the work of John Rawls to argue that there are important reasons to distinguish a moral perspective on structural processes from a moral perspective on immediate individual interactions (Rawls 1999, Young 2013e).

According to this account, the basic structure profoundly influences people's life prospects and principles of justice should therefore apply to background conditions rather than to individual transactions. We should distinguish moral principles and judgements that apply to this basic structure from the moral principles that apply to the actions and decisions of individuals or individual organisations. Young argues that

there should be a “moral division of labour”⁸ between principles and judgements that focus on general background conditions that provide the framework for the activities of individuals and associations and the principles and judgements that evaluate the individual activities themselves. If we do not distinguish a level of social structure from a level of individual interaction we risk failing to normatively evaluating the aggregate consequences of the combined actions of many individuals.

By concentrating too narrowly and exclusively on the actions of culpable individuals we miss something important about the serious harms caused by structural factors. This does not mean that we should discard all accounts of individual responsibility for producing and rectifying harm. Such individualistic accounts are analytically distinct from, though reinforced by structural factors that cause the most serious, lasting and widespread harms like oppression, exploitation and permanent environmental degradation. In summary, there are three conditions that determine whether an individual is experiencing harm or disadvantage as a result of structural injustice. The harms are:

- (i) Due in some way to a feature of her social position or identity,
- (ii) Something which she has unjustifiably suffered, and,
- (iii) Not obviously traceable to the malicious intent and/or actions of individual(s).

In this thesis I focus on structure as the subject of responsibility using Young’s account of structural injustice and structural harms (Young 2013e).

⁸Young, I. M., (2013e): 66

2.2 Taxonomy of groups

The term ‘group’ is central to this thesis. A group comprises two or more people. Groups can be formal (such as transnational corporations) or informal (a group of friends arranging a party). Unstructured groups are informal groups that are minimally unified by some property, for example: human individuals who drive cars. Hereafter I use the phrase ‘unstructured groups’ whenever I am referring to groups of this kind. They are to be distinguished from formal, structured groups like transnational corporations, states and international institutions. Hereafter I use the terms ‘organisation,’ ‘institution,’ ‘government,’ ‘state’ or ‘corporation’ to refer to structured groups. Finally, there are even less structured groups that lack unifying properties altogether. I shall call these individuals. I use the generic term ‘group’ when discussing issues that pertain to both structured and unstructured groups. The term ‘collective’ should be taken to mean done by people acting as a group, structured or otherwise, rather than ‘all of us’ as individuals unless otherwise stated.

There is an important distinction between structured and unstructured collective harms (Kutz 2000). Many of the most serious harms inflicted on society happen as a result of the concerted actions of structured groups like governments and corporations, for example the Dresden bombers during the Second World War.⁹ An unstructured collective harm, like the pollution caused by motorists, results from a confluence of individual behaviour.¹⁰ Environmental damages that arise from such

⁹Kutz, C., (2000): Chapter 4

¹⁰*Ibid.* Chapter 6

‘tragedy of the commons’ cases result from an aggregate of marginal individual contributions. The features of unstructured collective harms are as follows:

- a) They are collectively brought about, or could have been collectively prevented, yet,
- b) No individual’s causal contribution is either necessary or sufficient for the outcome or the prevention thereof, and,
- c) They are not the collectively intended consequence of the participants’ deliberations (Kutz 2000).

What these cases have in common is that as with the Dresden bombers, no individual polluter’s contribution makes a significant causal difference. Unlike the Dresden bombers, individual polluters are not intentional participants in a collective act of pollution. In the cases of unstructured collective harm, like the pollution caused by motorists, the content of our intentions only overlap whereas in cases of structured harms like the raid on Dresden the content of our intentions are the same. As far as Kutz is concerned participatory intent is the main reason for finding people responsible for a collectively produced outcome.¹¹

Kutz’s use of the terms ‘structured collective harm’ and ‘unstructured collective harms’ may be confusing in the context of my discussion of structural injustice. Examples of structural injustices in Young’s account are also cases of what Kutz calls ‘unstructured collective harms.’ For Kutz, these cases are unstructured because they are not the result of a single co-ordinated project where there is an intention to cause harm. Young describes the case of the lone parent vulnerable to homelessness in such

¹¹*Ibid.* 188

a way that no individual she encounters *intends* to exploit, dominate or oppress her or make her vulnerable in some way (Young 2013e my emphasis). Young does this to illustrate a key feature of structural injustice; that seriously harmful outcomes occur regardless of the intentions of those involved in the process. It may be the case that all involved behave impeccably, yet their actions cause harmful outcomes.

Kutz's main example of unstructured collective harm is global climate change caused by the emission of fossil fuels into the Earth's atmosphere resulting from the actions of an unstructured group. Kutz's view is that such cases lack a shared intention to cause harm, which is why they are unstructured collective harms in his schema. While Young agrees there is not a shared intention to cause such harm in 'tragedy of the commons' cases, she still characterises this as an example of structural injustice.¹² In this thesis I am concerned with cases of structural injustice as defined and characterised by Young. I explicate Young's conception of structural injustice more fully in Section 2.2 below.

My account presumes something about collective agency, specifically that collective agency occurs when individuals act together in a minimally coordinated manner to produce a particular outcome or achieve a goal. Collective agents may be formally structured, or not, and they may supervene on their individual members or they may be emergent in some other capacity. There already exists a large body of mainly theoretical literature on collective agency.¹³ Theorists working in this area are concerned with identifying the conditions for the existence of collective agents, and the extent to which these collective agents might be held legally and morally

¹²Young, I. M., (2013f): 102

¹³For example, Bratman, M. (1993) & Bratman, M. (2013). See also Miller, S., "Intentions, Ends and Joint Action," *Philosophical Papers* 24 (1995): 51-66 and See Searle, J., (1990) "Collective Intentions and Actions," in P. R. Cohen, J. Morgan, M. E. Pollack (eds.), *Intentions in Communication* (Cambridge: MIT Press, 401-415

responsible for their actions. My aim is to bring this theoretical work on collective agency to bear on collective moral responsibility for matters of substantive structural injustices. My position on collective agency is broadly sympathetic to Margaret Gilbert's account of joint intentions, joint commitments, joint actions and joint beliefs outlined in Chapter 5. Unlike Gilbert, it is my view that the collective qua collective can be conceptually prior to its individual members. I shall set aside reductive views about claims about responsibility derived from reductive claims about agency except to say that my argument about collective moral responsibility denies those reductive views. I also set aside strong ontological claims about groups as really existing entities in the world. I say no more about agency in this thesis. Hereafter, collective agents are referred to as collectives or groups according to the schema outlined above.

2.3 Structure as the subject of responsibility

Young acknowledges two important objections to the notion of structure as a subject of justice that are briefly outlined below. I include this aspect of Young's analysis because her individualistic account of responsibility justice is developed in response to these objections.

The first objection by G. A. Cohen raises the concern that the Rawlsian account of structure as the subject of justice does not involve individual action and the choices individuals make in their everyday life.¹⁴ According to this objection, making structure the subject of justice suggests that the actions of individuals are irrelevant to the

¹⁴G. A. Cohen (2000) "Where the Action Is: On The Side of Distributive Injustice," in *If You're An Egalitarian How Come You're So Rich?* Cambridge MA: Harvard University Press discussed in Young, I. M., (2013c): 64-74

pursuit of justice. This is important because how individuals choose to act in relation to one another often has profound implications for issues of justice. According to this objection, we need a personal ethos of justice that motivates the actions of individuals within society in addition to just institutions.

The second objection by Liam Murphy is that when there is social injustice, individuals, collectives and institutions are all obliged to use any means available to promote justice.¹⁵ The primary duty is not to promote just institutions but to promote the just outcomes those just institutions are supposedly for. For example, faced with global poverty the rich person in the developed world can promote justice most effectively by donating money directly to humanitarian aid agencies than if she devoted her resources to promoting just international institutions.

In response to these objections, Young acknowledges that individuals do have responsibilities in relation to issues of justice. Her central project is to conceptualise those individual responsibilities given that many everyday social conventions, practices and habits individuals enact and re-enact contribute to producing and reproducing social injustice. While there are important reasons to distinguish a structural point of view from one that focuses on individual interactions, Young argues for an individualistic account of moral responsibility that operates on the structural level and the individual level. This means that as individuals we should adopt a dual perspective judging our own actions and the actions of others from two points of view: the interactional and the institutional. We should judge our own actions as individuals and the actions of others as individuals according to how we treat people directly. We

¹⁵Liam Murphy (Autumn 1998) "Institutions and the Demands of Justice," in *Philosophy and Public Affairs* 27(4): 253 discussed in Young, I. M., (2013c): 64-74

should also ask whether and how we as individuals contribute by our actions to structural processes that produce vulnerabilities to deprivation and domination for those individuals who find themselves in certain positions where they have limited positions and less power than others. It may be that some people's individual actions are morally impeccable yet at the same time they contribute much to the production and reproduction of structural injustice because of the social position they occupy and the actions they take within it. According to Young, they have a responsibility as individuals to notice this and to actively dismantle those unjust structures (Young 2013d, Young 2013e, Young 2013f).

Social structures are revealed in patterns in relations among people and the positions they occupy relative to one another. We take a structural point of view when we try to see how the actions of masses of people within a large number of institutions converge in their effects to produce such patterns and positioning. According to Young, we should distinguish normative judgements that refer to structures from normative judgements that refer to individual actions. The former takes a macro view on social processes considering how the effects of actions within institutions are mediated by the actions of other people in other institutions to produce outcomes that are just or unjust. The latter considers more immediate issues of how people treat each other in more direct ways. Young's account rejects the view that moral principles apply only to individual interactions. She argues that individuals also need a point of view of moral judgement on the structure that is independent of the point of view of judgement on individual interactions. When it comes to responsibility for justice in Young's individualistic account, it is appropriate to distinguish moral judgements about individual interactions from moral judgements about social-structural processes and

their effects. Young aims to develop a conception of individual responsibility in relation to each.

Young's individualistic approach is illustrated well in her analysis of responsibility across borders and particularly in her analysis of sweatshop labour as a specific example of global injustice (Young 2013d). Global structural injustices paradigmatically include the conditions produced by increasing wealth inequality, the negative effects of climate change on globally vulnerable populations and the current refugee crisis. Young develops an individualistic account of the shared forward-looking responsibility we have as individuals to rectify the serious harm done by such global structural injustices. She calls this the social-connection model of responsibility.¹⁶ According to Young, this is a shared responsibility that we all bear personally as individuals in a form that we should not divide and measure.¹⁷ This means that we should not distinguish degrees and kinds of responsibility in reasoning about how to take forward-looking action to discharge this responsibility. This contrasts with her liability model of responsibility¹⁸, which is backward-looking since it is concerned with identifying individuals and groups who are liable for their actions, which are causally connected to the harm in question. Young argues that the social connection model is better suited to cases of structural injustice where it is not necessarily the case that specific individuals or groups cause harm. Young's view is that the practical basis of this responsibility is that we as individuals participate by our actions in the operations of institutions that sometimes produce injustice. Young's individualistic conception of moral responsibility is that as individuals we need a point of view of moral judgement on the structure that is independent of the point of view of

¹⁶Young, I. M. (2013f): 96, 104-113 *passim*

¹⁷Young, I. M., (2013d): 124

¹⁸Young, I. M., (2013f): 97-104 *passim*

judgement on our individual interactions. I discuss the liability and social connection models of justice and Young's arguments concerning responsibility across borders in more detail in Chapter 6.

Theorists make a common mistake by analysing injustice as solely or mainly a problem of individual acts of discrimination, exploitation and oppression. They sometimes fail to see it also as a result of a system of interlocking, reinforcing political, economic, social, cultural and legal institutions. Young's account recognises the role such a system plays in causing injustice, yet her response is individualistic insofar as individuals have a responsibility for rectifying structural injustice. Young's individualistic account of responsibility for structural injustice does not fully incorporate the many other responsible collectives like states, international institutions and transnational corporations. While her account draws out some important features of the problem of structural injustice, it obfuscates others.

In Chapter 6 I provide an account of moral responsibility that addresses this problem. I aim to demonstrate that in the most important cases of structured collective harms like global injustice there is a relationship between structural injustice and collectives that results from the structural failings of the collective qua collective. *Contra*-Young, I will argue that structured groups like transnational corporations, states and governments play a vital role producing, rectifying and being held to account for specific cases of structural injustices that cause serious structured harms like sweatshop labour. I aim to develop an account of collective, non-distributive moral responsibility that does the institutional work Young denies. This is intended to complement rather than replace Young's individualistic account.

In this chapter I explicated the taxonomy of groups I will use in this thesis as well as explaining the important distinction between structured and unstructured collective harms. I have explained what is meant by structural injustice. I have discussed Young's individualistic conception of responsibility with reference to her analysis of global structural injustice. I have explained why this is incomplete and why there is a need for an additional collectivist account of moral responsibility. In the following chapter I examine in more detail what is meant by individual moral responsibility.

Chapter 3

Individual Moral Responsibility

In this chapter I discuss individual moral responsibility in order to contextualise I. M. Young's individualistic account of responsibility for justice (Young 2013f). In Section 3.1 I clarify what is meant by moral responsibility with reference to Susan Wolf and T. M. Scanlon's analyses of this concept (Wolf 1985, Wolf 2013, Scanlon 1999). In Section 3.2 I apply the canonical individualistic approach to complex cases of co-ordinated action (Wolf 1985, Velasquez 1983). I start with Susan Wolf and Manuel G. Velasquez's accounts because they are the least sympathetic to a collectivist account. In Section 3.3 I outline the individualistic approaches to collective moral responsibility provided by Seumas Miller (Miller 2010, Miller 2011). Although I disagree with exclusively individualistic approaches to collective moral responsibility, I use aspects of these explanations of moral responsibility *per se* in my account.

3.1 What is moral responsibility?

Susan Wolf argues that there is something specific to moral responsibility that resists a collectivist interpretation (Wolf 1985, Wolf 2013). Her approach is typically

individualistic, arguing that if blame or praise is justifiable in some case it is because some individual deserves it (Velasquez 1983, Wolf 1985, Wolf 2013).

Wolf identifies three types of responsibility: causal responsibility, practical responsibility and moral responsibility (Wolf 1985). Causal responsibility applies to those cases where we are only concerned with a primary cause of a state of affairs like the harm done by earthquakes and viruses and when cat knocks over a glass of milk, for example. In such cases it is unintelligible to attribute moral responsibility to the prime cause. To be practically responsible, which presupposes causal responsibility, an individual must be able to foresee the consequences of an action and incorporate such expectations into her deliberations about whether to proceed. The individual assumes the risks associated with the action she performs, either bearing the damages or reaping the rewards that follow. Wolf gives the example of being practically responsible for hitting a ball through a window she was playing near because she should have foreseen the likely consequences of her actions.¹⁹

Moral responsibility goes beyond causal and practical responsibility. Questions about moral responsibility are often questions about whether some action can be attributed to an individual such that it can be a basis for moral appraisal, which T. M. Scanlon calls “responsibility as attributability.”²⁰ Judgements of “substantive responsibility”²¹ express substantive claims about what people are (or are not) required to do for each other. Responsibility in this sense is concerned with what we owe to ourselves and to each other and what others owe to us. To be morally responsible is to be blameworthy (if the action is bad) and praiseworthy (if the action is good). We do not only think

¹⁹Wolf, S., (1985): 276

²⁰Scanlon, T.M., (1999): 248

²¹*Ibid.*

someone is responsible; we actually blame or praise them leading in some cases to punishment or reward. When we charge individuals or groups with moral responsibility we mean something more than merely causal or practical responsibility. The adult who purposely knocks over the glass of milk out of a spiteful desire to ruin breakfast exemplifies a different kind of responsibility because it reflects more deeply on her. She is expressing an attitude that makes it appropriate to hold her morally to account. She has fallen short of the standards we impose on each other out of mutual respect and concern. This is why we would blame her for her expression of ill will to others. People who bear moral responsibility for an action possess the intellectual and cognitive capacity for deliberation, the forming of intentions and acting upon complex reasons. Such capacity is a necessary condition of being morally responsible.²²

These different forms of responsibility are not necessarily incompatible. People can be only causally responsible, only practically responsible, they can be causally and practically responsible or they can be causally, practically and morally responsible. In this thesis I am most concerned with attributions of moral responsibility.

Wolf argues that an individual is only responsible in a moral sense when their actions express or reflects what she calls their “soul”²³ or “inner self.”²⁴ It is only appropriate to have reactive attitudes to individual human adults who are “one of us.”²⁵ This means that we should only attribute moral responsibility to adults who are psychologically like us (possessing “normal”²⁶ mental health and first-class intelligence)

²²The notion of free will also plays an important role in the debate about moral responsibility. In this thesis I make the background assumption that individuals and collectives could have done otherwise.

²³Wolf, S., (1985): 279, *passim* and Wolf, S., (2013): 5, *passim* I make no metaphysical or spiritual commitments to the existence of souls in this thesis.

²⁴Wolf, S., (2013): 5

²⁵*Ibid.* 10

²⁶*Ibid.* 8

and express the same sort of soul or inner self.²⁷ Rational and intelligent individuals who can communicate with each other in moral terms and make judgements about reasons for acting can be regarded as responsible in the sense required for moral praise or blame. Another way of expressing this is to say that individuals or groups of individuals must have the right kind of inside in order to bear moral responsibility.

An individual cannot be morally responsible for an action if she cannot recognise what is right or wrong about it. Wolf introduces the example of sociopaths defined by her as people who “... lack a sense of inner disapproval that echoes the social disapproval of moral wrongs.”²⁸ They can identify the social disapproval that follows from certain actions though they are unable to feel empathy or sympathy for that disapproval. Thus they lack the motivation those who are not sociopaths have to keep their behaviour within moral boundaries. In which case, according to Wolf, sociopaths are not morally responsible for their actions and we should not hold reactive attitudes towards them (Wolf 1985, Wolf 2013). In Chapter 5 I argue that the core normative category of moral responsibility does not depend on the shape of the ‘inside’ as characterised by Wolf. My account is concerned with attributions of moral responsibility that flow from doing and/or causing harm. In my account, collectives qua collectives can be held collectively responsible for the harm they do and/or cause regardless of the type of inside they do or do not have.

3.2 The individualistic approach to complex cases of co-ordinated action

²⁷*Ibid.* 10

²⁸Wolf, S., (1985): 278

Susan Wolf identifies two approaches to organisational responsibility (Wolf 1985). The first is what she calls the Atomic View of Organisational Responsibility.²⁹ According to this view, the actions and responsibilities of an organisation are functions of the actions and responsibilities of the individual members of that organisation. If an organisation has done something that is blameworthy this means that individuals within that organisation are morally responsible. The organisation may be morally responsible for its actions, but this responsibility is entirely derivative. Organisations are composed of individuals and organisational acts are the actions of individuals. When an organisation is responsible for an action this responsibility should always be traced back to certain individual(s) or groups of individuals in that organisation.

Alternatively there is the Organic View of Organisational Responsibility.³⁰ According to this view, the moral responsibility of an organisation is irreducible. The argument goes as follows. An organisation is something more than its individual members who come and go while the organisation persists. The actions of the organisation are not the same as the actions of the individual members of the organisation. So, when an organisation is responsible for an action this responsibility cannot always be traced back to certain individual(s) in that organisation.

What is at stake here is how to attribute responsibility for the harm done by groups. If the Atomic View is correct then individual members are morally responsible. If the Organic View is correct the organisation and its individual members can be held morally responsible. In which case corporations can be held morally responsible for

²⁹*Ibid.* 269

³⁰*Ibid.* 270

their actions. If the Atomic View is correct then corporations are exempt from moral responsibility though they may still be causally and/or practically responsible for some of their actions and subject to legal action under some aspects of civil and/or criminal law.

According to Wolf, there are two individually necessary conditions for moral responsibility. The first is the cognitive capacity to be sensitive and responsive to complex reasons for and against certain actions. This is also a necessary condition of practical responsibility. The second is the emotional capacity to feel sympathy and respect for those reasons, which Wolf calls the right kind of inside (Wolf 1985, Wolf 2013). Wolf argues that corporations are practically responsible for their actions because they satisfy only the first of these necessary conditions. Moral responsibility cannot be attributed to corporations qua corporations, though they may be legally culpable for their actions in some cases. This culpability is derived from their practical responsibility. In Wolf's account, to be morally responsible is to have certain intellectual and moral capacities. Wolf acknowledges that people speak of corporations as if they have personalities and character and as if they express values and goals, but argues that this is analogous to an inkblot being said to represent a human face.³¹ Corporate values and goals do not result from the conscious thought, reflection, deliberation and intention of the organisation. It is the individuals in the organisation who reflect, deliberate and form intentions. According to Wolf, organisational objectives and procedures can be re-examined, rejected, revised or retained by individuals in the corporation at any time. A corporation's goals, policies, structures and actions do not express the felt concerns of the organisation since a corporation does not have felt concerns, motives or desires. The corporate goals,

³¹*Ibid.* 280

policies, structures and actions reflect the motives and concerns of the individuals who write them and act on them. In this account the organisation is nothing more than the aggregation of the individuals who comprise it.

Wolf argues that an organisation can be practically responsible for their actions, and therefore liable for costs and damages, but not morally responsible. Organisations do not possess a unified consciousness and cannot think. They are like sociopaths, according to Wolf.³² Organisations have the cognitive capacity to recognise the features of unwonted behaviour in virtue of the thoughts and deliberations of their members. The organisation lacks the emotional capability to sympathise with these features. Wolf thinks this is why it is important to hold corporations practically responsible for their actions since the resulting legal penalties incentivise them to act in accordance with societal expectations. Individuals can think so the organisation can reflect and deliberate by way of the reflection and deliberation of its constituent members. Corporations can be moved to act within moral goals by holding them practically responsible for their actions. A corporation that pollutes a river can be made to pay for the river to be cleaned since it is practically responsible for its actions. In Wolf's account the corporation qua corporation cannot be blamed for the harm it does though it may be practically responsible if it can be shown that this harm was the result of some negligence on the part of the organisation.

This argument for practical responsibility and against moral responsibility in the case of organisations rests on the collective's lack of emotions. Wolf characterises organisations as having cognitive capacities to recognise reasons for constraining their

³²See *The Corporation: The Pathological Pursuit of Profit and Power* by Joel Bakan (Free Press 2003) for an argument that since under US constitutional law corporations are treated as individuals it is reasonable to ask what kind of individuals they are. The author's conclusion is that they resemble sociopaths.

behaviour. This is why they can be held practically responsible for their actions. Crucially for Wolf they lack the kind of inside that makes them able to be moved to respond to those reasons. If criminal law expresses a moral judgement then it should not be applied to organisations in Wolf's account. It can be applied to the individuals within the organisation because they have the right kind of inside. They can reason and deliberate insofar as the individuals that comprise the organisation can reason and deliberate. They can respond to external sanctions, for example by deciding not to perform an action that will pollute a river because if they do they are likely to be fined. What they lack is the capacity to feel sympathy for the reasons why this would be a wrongful act. So, if the corporation proceeds with the action and pollutes the river it is practically responsible but not morally responsible for its actions.

A further reason why corporations are not morally responsible is to do with individual autonomy (Velasquez 1983). According to this view, groups are nothing more than collections of individuals each of whom is morally responsible for what they do. The individual intentionally performs, or helps to perform an act, and is liable for blame (or praise) and possibly punishment (or reward.) This rules out the defence that individuals are 'following orders' by implementing corporate policies. The buck stops at each individual's desk. Each individual forms a plan of action and acts it out. The plans (intentions) and actions are not the corporation's plans (policies as intentions) or actions. The individual in a group setting is always free to think and act otherwise. They can disagree with corporate policies and refuse to carry them out. They can try to change corporate policies. For this reason, moral responsibility cannot be transferred to a third party; it always tracks back to individuals (Velasquez 1983). By

default, moral responsibility must be located at the individual level according to this individualistic account.

There are two serious problems with Wolf and Velasquez's individualistic accounts. The first and most important of these problems is illustrated by cases like the *Herald of Free Enterprise* disaster in 1987.³³ The subsequent inquiry found that there was a general air of sloppiness pervading the company but no individual or groups of individuals could be held directly responsible for the tragedy.³⁴ This disaster is an example of the kind of case where no individual makes a major contribution to the harm done yet collectively the individual actions combine with calamitous effects. This gap between individual responsibility and collective responsibility is what Susan Wolf terms "the leftover blame"³⁵ No individual has made enough of a contribution to the disaster to be held responsible for the deaths of the passengers and the crew. The collective, in this case the company that owned the *Herald of Free Enterprise*, cannot be blamed because it does not have the attributes required for moral responsibility. In cases where we cannot identify responsible individuals, or if they do minimally wrong individually but maximally wrong collectively, we must accept that sometimes wrongdoing just happens and no one is to blame (Velasquez 1983, Wolf 1985). Wolf argues that where criminal and civil law can be applied it should be, though we must accept that in cases where in no one person or group of people are responsible for wrongdoing, impersonal forces just happen to cause harm.³⁶

³³For a full discussion of this tragedy and its relevance to the moral responsibility of organisations see List, C., & Pettit, P., (2011).

³⁴*Herald of Free Enterprise: Formal Investigation* by Mr Justice Sheen Available at https://assets.publishing.service.gov.uk/media/54c1704cc5274a15b6000025/FormalInvestigation_HeraldofFreeEnterprise-MSA1894.pdf Accessed on 31.05.17

³⁵Wolf, S., (1985): 273

³⁶*Ibid.* 274

This leads to the second problem. It may become much harder to prevent further organisational negligence leading to more harm being done. Although legal sanctions that follow from causal and practical responsibility, there are some cases like the *Herald of Free Enterprise* disaster where it is not possible to hold individuals or the corporation legally or morally responsible for their negligence. The manslaughter trial of P&O European Ferries and seven former employees collapsed and no one was ever legally held to account for the loss of almost two hundred lives.³⁷ In cases like this there is no incentive for organisations or the individuals in them to analyse and reflect on their conduct to ensure that little or no harm is done as a result of their actions. This could have the perverse effect of incentivising groups who intend causing harm to arrange themselves such that each individual does little enough to escape responsibility while doing enough as a group for serious harm to be done. For example, the criminal actions in News International regarding phone hacking. The activities were organised so that knowledge of the tactics used by editors and reporters was not widely shared.³⁸ This model could also apply to organised crime syndicates, which are not corporations. They organise their activities so that the knowledge of their criminal operations are not widely shared, which also protects the most senior members of the syndicate from being culpable but where we do have some individual culprits.

There are three possible responses to these problems. The first is to bite the bullet and accept that there are cases where it is not possible to attribute moral responsibility and impersonal forces combine to cause tragic events. The second is to revise corporate

³⁷“Manslaughter Trial in '87 British Ferry Disaster Collapses” *LA Times* 19.10.90 Available at http://articles.latimes.com/1990-10-19/business/fi-2903_1_ferry-disaster Accessed on 11.06.2017

³⁸Phone hacking trial laid bare the dark arts of unethical journalism” by Karin Wahl Jorgensen *The Conversation* 25.06.2014 Available at <http://theconversation.com/phone-hacking-trial-laid-bare-the-dark-arts-of-unethical-journalism-27906> Accessed on 31.05.17

law so that in cases like the *Herald of Free Enterprise* tragedy it is easier to hold the company to account for its negligence. It may not be the case that the law can be revised such that in all such cases an individual, a group of individuals or the corporation itself can be held practically responsible for its actions. This is because there is likely to be further cases where it is simply not possible to track individual contributions to an event such that any one person or a group of people can be shown to be clearly responsible for that event. The first and second responses are not incompatible. We may accept that moral responsibility cannot be coherently attributed to cases of corporate misconduct while holding them practically responsible for their actions. In individualistic accounts it is possible for a company to be found legally responsible for their actions without being held morally responsible for the same actions (Velasquez 1983, Wolf 1985). The third response is to consider the possibility that corporations are morally responsible. This is not incompatible with holding the corporation practically responsible for its actions. I present this argument in Chapter 4.

3.3 Individualistic conceptions of collective moral responsibility

In this section of the chapter I outline an individualistic approach to collective moral responsibility provided by Seamus Miller (Miller 2010, Miller 2011). I include this account to illustrate the different approaches individualists take to moral responsibility. Miller's account progresses beyond the strictly delineated analysis of individual responsibility provided by Wolf and Velasquez insofar as it acknowledges the possibility of collective moral responsibility as an aggregated form of individual

moral responsibility derived from joint action. This account rejects the central claim of collectivist accounts that collective moral responsibility is moral responsibility assigned to the collective qua collective. They deny that the collective bears moral responsibility for outcomes even when none of the individual members is individually morally responsible for those outcomes.

According to Miller, collective moral responsibility is a species of joint responsibility.³⁹ Each member of the group is individually morally responsible but conditional on other members being individually morally responsible. In this way moral responsibility is interdependent. Miller's is an account of collective moral responsibility that arises out of an account of joint actions and runs parallel to accounts of individual moral responsibility. Individuals who perform a joint action are responsible for that action insofar as they had a reason/reasons to perform that action, then formed an intention to perform that action (or not to perform it), and finally acted (or did not act) on that intention, and did so on the basis of reason(s). If they are collectively responsible for outcomes of the joint action it is because they performed the joint action so described. They each had a collective end, each intentionally performed their contributory action and each did so because they believed the others would perform their contribution thereby realising the collective end. If a group of individuals are collectively responsible for the realisation of some collective end and if that outcome is morally significant then they are collectively morally responsible for that outcome and can reasonably attract praise or blame, reward or punishment, for bringing it about.

³⁹Miller, S., (2011): 141

Miller advocates an individualistic account of collective responsibility. On this view of collective responsibility as joint responsibility, collective responsibility is ascribed to individuals. Each member of the group is individually morally responsible for the outcome of the joint action, but each is individually responsible jointly with the others. This assumes first, that the individual can be held morally responsible and second, they might have a justification or an excuse for performing that action.

In Miller's individualistic conception of collective moral responsibility social groups and organisations have collective moral responsibility only insofar as the individuals who constitute such entities have individual moral responsibility, either individually or jointly (Miller 2010). This is similar to I. M. Young's conception of a social connection model of responsibility is rooted in a notion of shared responsibility that is distinct from a collective responsibility.⁴⁰ A shared responsibility is distributive while the latter is not. There is no need to posit a moral obligation that attaches to a collective as such since collectives qua collectives do not have moral responsibility. It is only individuals that are morally responsible for institutional moral wrongdoing, either individually or jointly. When it comes to global structural injustice, for example, Miller argues that the extent and diversity of economic interaction and interdependence between citizens of diverse nation-states is such that there is a collective responsibility to establish, redesign or shape global institutions to address the needs of those suffering from structural harms.⁴¹ This collective responsibility is an aggregation of individual responsibility. His account denies that there are irreducible collectives that act and are responsibility holders. I further discuss Young's distinction between a shared responsibility and a collective responsibility in Chapter 6.

⁴⁰Young, I. M. (2013f): 109-111

⁴¹Miller, S., (2010): 149-150

In this chapter I have provided an explanation of the concept of moral responsibility and outlined different individualistic conceptions of moral responsibility. One of these conceptions takes an exclusively individualistic approach to moral responsibility (Velasquez 1983, Wolf 1985, Wolf 2013). The other is an individualistic view of collective moral responsibility (Miller 2010, Miller 2011). In spite of their differences, what these individualistic accounts of moral responsibility have in common is that they reject the notion that the collective qua collective as an independent entity is morally responsible for its actions. I also analysed the individualistic approach to complex cases of co-ordinated action. Young's conception of a shared responsibility as distinct from a collective responsibility is consistent with Miller's individualistic approach to collective responsibility. What Young also has in common with Miller is that her account of responsibility across borders denies that there are irreducible collectives that act and are responsibility holders (Miller 2010, Miller 2011, Young 2013d). In Chapter 6 I explain why this renders Young's account incomplete. In the following chapter I discuss Joel Feinberg's canonical taxonomy of attributions of collective moral responsibility. This taxonomy includes the conception of non-distributive collective moral responsibility that is central to my collectivist account.

Chapter 4

Attributions of collective responsibility

In this chapter I discuss Joel Feinberg's taxonomy of collective responsibility arrangements for addressing the widespread harm and wrongdoing caused by groups (Feinberg 1968). This contrasts with the individualistic approaches to moral responsibility discussed in the previous chapter. In Section 4.1 I discuss the notion of group liability without fault. In Section 4.2 I discuss group liability with non-contributory fault. In Section 4.3 I discuss collective and distributive contributory group-fault. In Section 4.4 I discuss collective but not distributive contributory fault. In Section 4.5 I use this non-distributive notion of collective responsibility to reply to individualistic arguments regarding complex cases of co-ordinated action presented in Chapter 3.

Feinberg uses the phrase “contributory fault”⁴² to refer to the following three preconditions that must be satisfied for an individual to be liable to unfavourable responses from others:

- i. It must be true that the individual did the harmful thing in question,
 - ii. Their causally contributory conduct must have been faulty⁴³ in some way,
- and,

⁴²Feinberg, J. (1968): 674

- iii. If the harm is truly their fault then there must be a direct causal connection between the faulty aspect of their conduct and the outcome.

Contributory fault is an important feature of the individualistic approach to moral responsibility. It can also be located at the corporate level, which can be explained with reference to Feinberg's taxonomy of collective moral responsibility. This means that we can characterise collective moral responsibility in a way that is consistent with the kinds of cases that feature in accounts of individual moral responsibility. In which case we do not need a *sui generis* theory to explain collective moral responsibility.

Feinberg presents four distinct arrangements for collective responsibility:

- i. Group liability without fault,
- ii. Group liability with non-contributory fault,
- iii. Contributory group-fault: collective and distributive, and,
- iv. Contributory fault: collective but not distributive.

I consider each of these in turn below, paying closest attention to (ii), (iii) and (iv) because they have the most to offer by way of an explanation of collective responsibility in the cases of structural injustice I am interested in.

4.1 Group liability without fault.

⁴³Fault in this sense means that the individual has fallen short of some normative ethical standards or acted contrary to those standards.

This is the idea that whole groups can be held liable even though not all of their members are at fault. The group qua group is held responsible for the morally faulty actions of some of its members. This kind of collective responsibility occurs in groups where there is a very high degree of solidarity and it normally reinforces that solidarity. Goods and harms are collective and must be shared, for example by the punishment of all for the wrongdoing of a few. There is a large “community of interest”⁴⁴ which means the wellbeing of all is necessary for the wellbeing of each individual. This is prior to agreements to incur this kind of collective responsibility. In such circumstances, Feinberg thinks that collective responsibility can be a good thing because it strengthens and expresses those feelings of solidarity. Punishing the whole group for the actions of a few is an example of “vicarious liability.”⁴⁵ This practice illustrates why group liability without fault is an anathema to highly individualised notions of moral responsibility that value individual responsibility, autonomy and fairness.

Feinberg argues that people can experience feelings of vicarious liability. This is a special case in which people feel responsible for things they have not done which they are liable for. Feinberg has in mind the imaginatively sensitive and highly empathetic person who can experience the same feelings as another. Feinberg calls this process “sympathetic identification.”⁴⁶ He thinks that this concept can be used to explain strong feelings of group solidarity among black Americans (Feinberg 1968). As far as he is concerned, in cases like this the living can sympathetically identify with the dead. This is because of the strong feelings of group solidarity engendered by the shared experience of different generations of black people in the United States. Feinberg goes

⁴⁴Feinberg, J., (1968): 677

⁴⁵*Ibid.* 674

⁴⁶*Ibid.* 678

on to argue that he is incapable of feeling any kind of sympathetic identification with other white people living or dead.⁴⁷ Feinberg means that contemporary white Americans cannot feel vicariously guilty about, ashamed of or responsible for *historic* acts of injustice.

Feinberg is right to argue that he feels no bonds with seventeenth century slave traders analogous to the sympathetic identification between many contemporary black Americans and captured slaves. It would be abhorrent if anyone did. Furthermore, it is an impediment to progress, acting as a substitute for accepting responsibility to eradicate contemporary structural injustices like institutional racism. It diminishes the spotlight aimed at issues germane to the oppressed, redirecting the focus to a wasteful plane of apologetics, ineffective assessment and the needs of the already privileged. A discourse about white guilt for historic acts of injustice subverts the kind of sympathetic identification required to spur progress that should be focused on the experiences and needs of the oppressed, exploited and marginalised.

There are three issues with Feinberg's account of sympathetic identification. First, if it is true that imaginatively sensitive people can vicariously experience the feelings of others then this means that vicarious feelings of guilt are possible. Feinberg rules this out by arguing that there can be no such thing as vicarious guilt due to the specific nature of guilt as something that singles out the individual wrongdoer.⁴⁸ Feinberg's notion of sympathetic identification opens the door to the possibility that while people cannot be guilty of something they have not done they can vicariously feel guilty for the wrongdoing of others. Feinberg hedges his bets about this, qualifying his

⁴⁷*Ibid.* 679

⁴⁸*Ibid.* 676

observations about authentically vicarious feelings with the comment, "... if there can be such a thing."⁴⁹ Second, Feinberg is too quick to suppose that he feels no solidarity with "all white men"⁵⁰ dismissed by him as "a motley group,"⁵¹ no more of a collective than the entire human race. This is not enough to exculpate responsibility. Feinberg is too quick to dismiss that he is part of a group of white people who continue to benefit from unjust structures that oppress and marginalise black Americans. Racism is ideologically and institutionally perpetuated across generations by the kind of sympathetic identification among many white people that Feinberg denies. Finally we should ask what is authentic about Feinberg's notion of "authentically vicarious feeling."⁵² Hannah Arendt's view is that the authenticity is derived from the recognition that it is others who are suffering (Arendt 1987). The point of identifying structural injustice is not to make white people feel better about themselves by allowing them to feel guilty but to garner greater sympathetic identification with the oppressed thus inspiring change. Authentic vicarious feelings recognise that others suffer and are a spur to reparative action. In which case the notion of vicarious responsibility is intelligible when referring to individuals who must stand to account for what others have done, for example their parents and their siblings. The language of responsibility is better suited to this task than the language of guilt and liability for reasons I discuss in Chapter 5.

4.2 Group liability with contributory and non-contributory fault.

⁴⁹*Ibid.* 678

⁵⁰*Ibid.* 679

⁵¹*Ibid.*

⁵²*Ibid.* 678

This is the idea that a group can be held collectively responsible through the fault of each member, contributory or otherwise. Various faults can exist within a group without causal linkage to harm, but where the absence of harm is a matter of mere good fortune or luck. Feinberg provides the example of people who drive home after a party at high speeds. Only one of the drivers injures a pedestrian. We are tempted, Feinberg argues, to attribute collective responsibility in this case because all members of the group share the same fault, though only one individual's fault leads to harm. This is not because their fault was greater than any other's, but because of "independent fortuities,"⁵³ i.e. it was a matter of luck.

People may be praised for performing a morally significant act, or blamed for failing to do so. Typically we may think that our moral assessments should not be affected by factors beyond the control of the person or group being assessed. In which case, moral responsibility is immune to good or bad luck and this immunity is, for some, what gives morality its indispensable quality.

Bernard Williams' paper about moral luck and Thomas Nagel's reply challenge the canonical Kantian idea that moral responsibility is immune to good or bad luck (Kant 1785/1991, Williams 1981, Nagel 1979). The interesting problem generated by the idea of moral luck is that we normally expect to morally assess someone for those actions they control. However, Williams' important insight further developed by Nagel is that in many cases our moral assessments of people are affected by factors they have little or no control over (Williams 1981, Nagel 1979).

⁵³*Ibid.* 681

Nagel identifies four ways in which moral assessments are subject to luck: resultant luck (luck in how things turn out), circumstantial luck (luck in the circumstances a person finds herself in), constitutive luck (luck in who a person is and the kind of traits and dispositions she has) and causal luck (luck in how a person is determined by antecedent circumstances) (Nagel 1979). I am only concerned with circumstantial luck. We would normally expect to praise someone if they responded courageously and blame someone for their cowardly response. Nagel considers the behaviour of ordinary German citizens living under Nazi rule.⁵⁴ They could either be praised because they opposed the regime or blamed for cooperating with it. This was a moral test that many German citizens clearly failed. Although we condemn those Germans who supported the Nazis and praise as heroes those who resisted them, their presence in Germany and therefore the opportunity to behave well or badly was a result of their circumstantial luck to live in Germany at a time that called for a response.⁵⁵ The important general point is that the moral tests we face are determined by factors beyond our control. We may praise someone for behaving heroically or not in a dangerous situation, but if such a situation never arises they will not have the chance to distinguish or disgrace themselves and their moral record will be different.

Circumstantial luck is relevant to cases of structural injustice because the net beneficiaries of structural injustice find themselves in a circumstance that calls for a response regardless of their personal culpability for that situation. In cases of structural injustice, individuals who are net beneficiaries of those structures live alongside others who are immiserated by the same structures. The normal on-going structural processes of society consistently disadvantage the same groups of people. It is hard to

⁵⁴Nagel, T., (1979): 33-34

⁵⁵*Ibid.*

assign individual responsibility because it is not always possible to trace a linear causal relationship between those who benefit from the institutional practices and particular aspects of the oppression and marginalisation of others. Circumstantial luck is relevant here because the net beneficiaries of structural injustice and those who are oppressed by the same structures find themselves in a circumstance that calls for a response. There is a causal relationship between the benefits that accrue to some and the persistent disadvantage experienced by others. They only benefit because others are disadvantaged. Even if the net beneficiaries are not personally to blame for the situation they and others like them are in, they owe the situation a response.

In the case of circumstantial moral luck, we can point to a significant difference between blaming someone for the contingent circumstances they find themselves in, for example being a net beneficiary of the rewards of an unjust system which has winners and losers and blaming them for the extent to which they are complicit in that system, i.e. whether they actively perpetuate that system. Those who are net beneficiaries of an unjust system are accountable for this to the extent that at the very least they should notice that they are beneficiaries and bear witness to the oppression of those who suffer under the same system. Bearing witness is only one example of how those beneficiaries can face up to their responsibility to act in these circumstances. There are other more demanding responses such as actively working to dismantle the system they benefit from while exploiting and oppressing others. Those who actively perpetuate the system should be held responsible for their actions. This demands a different kind of response such as taking responsibility for ending the system that benefits them while exploiting others. This argument is predicated on the

view that individuals ought to be attentive to the institutions in their society and take notice of the good and the harm that they do.

David Enoch distinguishes between *being* responsible and *taking responsibility* (Enoch 2011, his emphasis). He argues that a person is not responsible for something by virtue of their relationship to the person who is morally responsible for that thing.⁵⁶ We can either be responsible for something or we can choose to take responsibility for it. Being responsible refers to those actions or intentions where being responsible for them is up to us, i.e. we could have done otherwise.⁵⁷ This means that these actions and intentions form part of our core agency and once they have taken place we are responsible for them. To this extent, being responsible is concerned with past actions and intentions that a person is responsible for. Taking responsibility is different. This involves an act of will to take responsibility for a situation where no prior responsibility exists. This relates to actions and events that fall outside of our core agency but are close enough to us for us to be able to take personal responsibility for them. Examples of things we can take responsibility for are the unforeseen consequences of our own actions, the actions of our children and the actions of our country. These cases fall within the scope of what Enoch calls “penumbral agency.”⁵⁸ We are not responsible for these things but as a result of the normative power of an act of will we can choose to take responsibility for them. Certain things fall outside the boundary of our penumbral agency. Enoch does not think we can take responsibility for the actions of past generations not least because making oneself responsible for an event in the past would be an example of backwards causation.⁵⁹ Enoch argues that by making this distinction between being responsible and taking responsibility we can

⁵⁶Enoch, D. (2011): 3

⁵⁷*Ibid.* 7

⁵⁸*Ibid.* 6

⁵⁹*Ibid.* 22

eliminate moral luck from considerations of moral responsibility. According to Enoch, we can take responsibility for circumstances which are outside our personal control but which fall within our penumbral agency.

We may not be able to alter the facts of the situation to say that we are responsible for the unjust actions of past generations as it applies to the notion of being responsible for them. An individual cannot intelligibly argue that they are responsible for an event in the past insofar as they caused that event (being responsible.) When it comes to assessing our moral responsibilities in cases where circumstantial luck applies and the facts of those circumstances are rooted in past unjust acts we can develop a model of collective responsibility. This is *non-labile* responsibility (my emphasis) where, following Enoch, a group of people can choose to take responsibility for the consequences of unjust acts they did not cause. Enoch is explicit in his view that cases where *taking responsibility* is not appropriate include the unjust actions of past generations or distant others. This is an example of events that fall beyond the boundary of our penumbral agency according to Enoch. Nevertheless the long-term consequences of those past unjust actions reverberate in contemporary society. We cannot claim to be responsible for historic unjust acts, but actions that reform and dissolve contemporary unjust practices are cases where we have a moral duty to take responsibility where no prior non-labile responsibility exists.

Enoch's argument about responsibility and penumbral agency is based on his own individualism when it comes to moral responsibility (Enoch 2011). Enoch does not believe that merely in virtue of being a member of a collective, or a citizen of a country, a person's moral record is automatically stained when the collective's or the

country's is.⁶⁰ Enoch considers the scenario where a person's country is engaged in morally dubious projects. When Enoch says he is an individualist he means that he does not think there should be a debit on this individual's moral account because of her country's actions. Enoch argues that if it is the case that legal and/or moral charges are brought against this country, it is not enough for the person to simply say that these are not her actions. He thinks that her response should be more complicated than this.⁶¹ Enoch does not deny that there is such a thing as collective responsibility; his concern is that given that the collective is responsible the issue is how that collective responsibility is distributed (Enoch 2011).

Given that this responsibility in relation to structural injustices rooted in historic acts of injustice falls outside of the domain of penumbral agency we have two choices. Either we respect individual autonomy and accept there is no duty to take responsibility for the situation or we identify a reason other than penumbral agency to explain why we have a duty to respond. It could also be argued that if it is solely down to circumstantial moral bad luck that a person finds herself in a situation that calls for a response then she is under no obligation to respond at all if the 'facts' of the situation are beyond her control. A notion of collective moral responsibility that applies to individuals and non-distributively to collectives addresses these issues. I return to this and the idea of penumbral agency in Chapter 6.

We should be attentive to the distribution of collective moral responsibility for unjust practices like institutional racism. For example, poor whites in the United States have not accrued as much benefit from racist institutions and practices as the wealthiest

⁶⁰*Ibid.* 4

⁶¹*Ibid.*

and most powerful white people. In these sorts of cases we can suggest that the distribution of collective responsibility is proportional to the liability for the harm done or the benefits accrued from unjust practices. For example, those white people who benefit the most from their considerable political and socio-economic power should take the most responsibility for its consequences embodied in the actions of unjust institutions and practices. This responsibility is derived from the observation that it is not accidental that some groups are repeatedly oppressed and marginalised by certain arrangements while other groups repeatedly benefit from those same arrangements.

Attributing responsibility only to those who benefit from structural injustice further marginalises the already oppressed and exploited by excluding them from a process that aims at their emancipation. Members of the disadvantaged groups must also consider their position in relation to unjust structures. There are many possible responses ranging from the relatively undemanding such as bearing witness to their oppression to highly demanding responses such as organising themselves and actively resisting their oppression. Similarly, poor white people do not have their responsibility exculpated by their poverty. They too can engage in a range of responses like noticing and bearing witness to injustice, speaking out, and actively working to dissolve oppressive systems. The distribution of responsibility in cases like these should broadly track the distribution of power and advantage but this does not mean that those with less power have no role to play.

This approach involves some moral risks (Lillehammer 2014a). One is that the moral standing of future generations is left hostage to the unethical behavior of others.⁶² When dealing with case of intergenerational justice this risk is unavoidable. A second risk is that it is the same people who come forward on each occasion to take non-lia- ble responsibility for harm done to others. We should ensure that when distributing collective responsibility we are attentive to existing power structures. A third risk is making morally imposing supererogatory demands on people that undermine their individual autonomy.⁶³ Feinberg is correct that the actions of white slave traders in the eighteenth century are not his actions. Nor is it entirely unreasonable for a contemporary white American to also claim that she is not vicariously responsible for those actions since she does not sympathetically identify with the white people who enslaved, exploited and oppressed black people. To this extent she is not responsible for the past actions of white racists. However, while such a response respects her individual autonomy and releases her from supererogatory moral obligations, a more nuanced response is called for. To say this is nothing to do with me or not done in my name or willfully cultivate ignorance of the harm done to others such that one is never called on to make any kind of response is at the very least problematic. Pure autonomy is not possible given the unavoidably communal nature of our shared lived experience. Being part of a community brings with it the collective responsibility to respond as individuals and in groups to situations that cause harm or risk causing harm to vulnerable others. I return to the idea of collective responsibility as derived from membership of the *polis* in Chapter 6. If this responsibility is unavoidable, then we are obliged to be attentive to how that responsibility is distributed such that it does not cause further harm and burden the already weak and powerless. It is morally

⁶²Lillehammer, H., (2014) 17

⁶³*Ibid.* 17-18

praiseworthy to take responsibility for the consequences of actions that are not one's own in spite of the moral risks entailed in doing so. We must be attentive to the likelihood that it may be the same people who repeatedly come forward to take responsibility for structural injustice, while the same people avoid doing so.

4.3 Contributory group-fault: collective and distributive

This refers to cases where we attribute collective liability to the whole group based on the contributory fault of each member of the group. This connects to individualistic accounts of collective responsibility like Seumas Miller's outlined in Chapter 3. Since each individual bears some responsibility for some of the harm done, the responsibility is not vicarious. This could include cases where large numbers of people are independently at fault without any joint agreement to act or communication between them. Feinberg provides the example of a thousand experienced swimmers relaxing on a beach as a person in the water calls for help. If none of the swimmers goes to their aid then this is an example collective and distributive contributory group fault. This is because we would normally expect there to be some duty to attempt rescue. Given that any of the swimmers could have rescued the person calling for help we can say that the harm only occurred because each individual failed to do so. In this example we aggregate the blame that accrues to each individual. This is unsurprising since there was no collectivity to begin with.⁶⁴ So far as we know, the swimmers on the beach did not plan their day out as a group intending to relax on the beach and so on. They arrived as individuals and responded as such to the situation. Therefore, there is only individual responsibility at work in this example. This presupposes the absence of

⁶⁴Arendt, H., (1987): 44

structures and institutions and has an atomistic view of the individuals concerned. In a case like this it would be reasonable to question the failures that led to someone drowning by a public beach. For example, asking why there were no trained lifeguards able to respond and save the drowning swimmer's life. For this reason I consider this a further example of a structural injustice.

This form of collective responsibility can also arise as a result of non-intentional co-operation causing harm. This could be as a result of "folkways"⁶⁵ or social mores that reflect on every member of the group. Referring to the post-bellum social system in the Southern states, Feinberg notes that collective responsibility can be ascribed to the white people who participated in the mistreatment of black people in the form of slavery and then segregation once slavery had been abolished.

Feinberg mischaracterises these events as an example of harm that arises from non-intentional co-operation. Slavery and segregation were part and parcel of the systematic and intentional exploitation and oppression of black people in the United States. This was not something that just happened to result from the folkways of the Southern states. The social mores and the systems of oppression were mutually reinforcing.

According to Feinberg, the only white people who may be exempt from this collective responsibility are those who were so disgusted by the treatment of black people they left the South to avoid participating in the racist institutions and practices. Those white people who disapproved of the system but remained and did not openly speak out should be held collectively responsible for the oppression and exploitation of black

⁶⁵Feinberg, J., (1968): 686

people (Feinberg 1968). He notes that such was the strength of the social mores at work in the Southern states that if a white person who could freely leave chose to stay then it is not likely that they were genuinely alienated from the systematic racist practices taking place.⁶⁶ According to Feinberg, “the 99%”⁶⁷ of white people who whole-heartedly approved of the racist practices failed a serious moral test and are collectively responsible. Of the remaining 1% who may not have approved of the egregious treatment of black people, they could either leave the South and/or actively campaign against those practices. If they did neither of these things then they too are collectively responsible for what happened. It was not enough for contemporary white southerners to hate their Southern traditions, despise their neighbours, not think of themselves as Southerners, withdraw their co-operation or just leave. They had a duty to at the very least speak out and, more likely, to actively resist and oppose the systems of slavery and segregation even at the risk of ostracism or worse as a result of their actions. There are two reasons why they had a duty to act. The first is that they benefitted from the system that brutally oppressed others. The second is their shared humanity with those who were enslaved and then segregated on the basis of their ethnicity.

4.4 Contributory fault: collective but not distributive

This applies to cases where through the collective but non-distributive fault of the group itself, it bears liability independently of its members.⁶⁸ In cases of non-

⁶⁶*Ibid.* 686

⁶⁷*Ibid.*

⁶⁸*Ibid.* 687

distributive collective responsibility the harm is ascribable to the collective whose moral responsibility is independent of any fault ascribable to individual members.

Joel Feinberg gives the example of the Jesse James train robbery where a group of train passengers fails to resist a robbery when the armed gang enters their carriage.⁶⁹ They could have collectively disarmed the thieves so the group qua group could be said to be responsible for a serious omission. It would have been heroic if any one individual had tried to overpower the gang but in this example the heroic path is supererogatory so it would be excessively harsh to fault any one passenger for failing to take that path. Not only was it beyond the capacity of any individual to bring about the morally desirable outcome, it would be unreasonable to expect any one person to do so. This is different from the example of the swimmers on the beach, any one of whom could have saved the drowning person. The train robbery is an example of a case where we may expect more of a group of people considered together than of its individual members. A group can fail to act as we hope it would for a variety of reasons, for example there is a fear of repercussions. Feinberg argues that the group can be blamed for not producing a hero when one was required due to there being something about that group's way of life that militates against heroism.⁷⁰ In the case of the reckless behaviour of the banks it would have been heroic of an individual had been able to intervene as a whistle-blower to put an end to the risky practices that made a major contribution to the global financial crisis of 2008.⁷¹ With the benefit of hindsight we can see that it would have been fairly straightforward to put in place a series of organisational practices, including a favourable whistle-blower policy that

⁶⁹*Ibid.*

⁷⁰*Ibid.*

⁷¹There are such whistle-blowers who act courageously at great personal risk, e.g. *Snowden* (2016) dir. Oliver Stone Endgame Entertainment Vendian Entertainment Krautpack Entertainment, *Enron: The Smartest Guys in the Room* (2005) dir. Alex Gibney Jigsaw Productions, 2929 Productions, HDNet Films.

would have prevented the negligent behaviour that led to the financial crisis. In these sorts of cases contributory fault seems to be most appropriately located at the level of the collective qua collective. This is in addition individuals being responsible is they are liable by their actions which caused the harm. Feinberg thinks that this kind of collective responsibility particularly applies to corporate or institutional situations, referring to the train robbery example as a model for “... a thousand crises in the history of our corporate lives.”⁷² He refers to situations where an institutional group persists through changes in its membership and faultless members must answer for harms caused or commitments made by an earlier generation of its members.⁷³ This is the notion of collective responsibility, which I develop further in Chapter 6 to address problems with I. M. Young’s social connection model of responsibility for justice with particular reference to her arguments concerning responsibility across borders (Yong 2013d).

A potential problem with this approach is that it appears to let individuals off the hook. Yet it would also seem unreasonable and disproportionate to place a small number of individuals on the hook for, say, the global financial crisis when the malpractice was so widespread and deeply embedded within the institutional culture.⁷⁴ Individualists like Wolf and Velasquez will struggle to attribute blame to individuals in these organisations not least because many individuals had a minimal causal impact in relation to the harmful effect of the aggregation of their individually minimal actions. In cases where large organisations cause very serious harm we may find that there are significant numbers of people who each individually bear a small proportion of responsibility. Chris Chapple calls this “the problem of

⁷²Feinberg, J., (1968): 687

⁷³*Ibid.* 687-688

⁷⁴See *Inside Job* (2010) dir. Charles Ferguson Sony Pictures Classics, Representational Pictures and Screen Pass Pictures.

proportionality,”⁷⁵ where individualistic approaches to certain kinds of collective harm risk either attributing too much or too little responsibility to individuals. This problem can be resolved by attributing non-distributive responsibility to the collective qua collective. In the following section I discuss the application of this idea to structured collective harms with particular reference to corporate cases.

4.5 *The holistic approach to corporate moral responsibility*

The *Herald of Free Enterprise* disaster in 1987 illustrates why we should reappraise the argument against corporate moral responsibility outlined in Chapter 3.⁷⁶ In cases like this enough people acting collectively leads to fatal consequences though no single act makes a difference. If we also deny that corporations are morally responsible for what they do, we are forced to accept this tragedy as an example of a terrible event no one is responsible for. This is unnecessary because we can attribute non-distributive collective moral responsibility to collectives qua collectives. This may culminate in an apology by them for their harmful actions, which does not necessarily impute any guilt or responsibility to the members.

Corporations perform morally significant acts so we rightly relate to them in moral terms. This type of collective responsibility is relevant under certain conditions. The first is that there must be a distinct property or characteristic of the corporation that has the capacity to cause harm, for example the racist attitudes that compromised the Metropolitan police’s investigation into the murder of Stephen Lawrence. These

⁷⁵Chapple, C., (2014): 124

⁷⁶For a full discussion of this tragedy and its relevance to the moral responsibility of organisations see List & Pettit (2011).

attitudes were later found to be symptomatic of the institutional racism of the Metropolitan police. Second, there must be an appropriate description of the outcome for which the corporation is being held responsible in the right way. In the case of the *Herald of Free Enterprise*, a particular individual failed to close the bulkhead door but how we describe the situation will affect the way we ascribe responsibility for the disaster. Like Feinberg's own example of the train robbery, it may have been beyond any individual to stop the robbery but it was not beyond any individual to take action towards stopping it. Similarly, preventing the ferry disaster was beyond any individual employee though any one of them could have taken action towards ending the general air of sloppiness that pervaded the company.

I will address two mistakes in the argument against corporate moral responsibility. The first is to do with Wolf's analogy with sociopaths. The second is to do with the account of individual autonomy within corporate structures.

4.5.1 Phenomenology of corporations

This part of the individualist argument boils down to two claims. First, experiential features like emotions are necessary for moral responsibility. Second, corporations lack these experiential features. Concerning the first claim, experiential features are not necessary for moral responsibility. From an ethical perspective we are interested in the normative status of individuals and organisations. It does not matter whether individuals or groups have the right kind of inside in terms of feelings. We can develop a theory of collective responsibility that does not require feelings of any kind. What is

crucial for being morally responsible is the capacity for intelligent responsiveness. Morality concerns what we owe to each other, sometimes regardless of how we feel about this. What matters is that corporations are able to recognise certain obligations. They can respond to legal obligations, for example by responding to criminal investigations⁷⁷ and by meeting their contractual obligations. Since companies can be guided by such legal considerations we can insist that they are also guided by moral considerations. The inner life of a corporation may be less nuanced and rich than the inner life of an individual but not so much that it should be excluded from the domain of moral responsibility. This is an account of the collective moral responsibility of corporations that does not require a supervenient state of emotionality. What is crucial for moral responsibility in this account is the capacity for intelligent responsiveness.

As for the second claim, it is not clearly the case that corporations do lack the right kind of inside required for moral responsibility. Wolf makes the analogy with sociopaths to show that corporations have the intellectual capacity to recognise why an action is right or wrong while lacking the emotional capacity to feel sympathy or respect for these reasons. In Wolf's account corporations, like sociopaths, are only causally and practically responsible for their actions. There are two problems with this analogy. The first is to do with Wolf's argument that corporations have intellectual capacities in virtue of the intellectual capacities of their individual members. We should grant Wolf this point but then extend it to argue that corporations have emotional capacities by virtue of the emotional capacities of their individual members. If corporations can be said to think insofar as their members can think, we can say

⁷⁷Rolls Royce apologises in court after settling bribery case *The Guardian* 16/01/17. Available at https://www.theguardian.com/business/2017/jan/17/rolls-royce-apologises-bribery-671m-uk-us-brazil?CMP=Share_iOSApp_Other Accessed on 16/01/17

they have emotions insofar as their members have emotions. To be morally responsible for their actions corporations only need to be composed of people who possess the necessary intellectual and emotional states. The second problem is to do with the analogy itself. Sociopaths are not made up of sub-parts that have the requisite capacities. Most or all of a corporation's members are not sociopaths. They can intellectually *and* emotionally connect to the reasons why an action is right or wrong. If my computer crashes causing me to lose my work it makes no sense for me to blame the computer. If my computer has been serviced by a corporation several times and each time it has crashes again, it is sensible for me to resent the company that repeats this mistake. Like all corporations it comprises individuals we can stand in a moral relation to. It is not staffed entirely by sociopaths indifferent to whether their clients' recently serviced computers crash causing them to lose their work. The mental and emotional states of a relevant kind are in place vis-à-vis the corporation's members for us to rightly hold it morally responsible for its actions. My on-going travails with my computer have something to do with some or all of the corporation's employees and something about the corporation itself, which repeats its mistake regardless of changes in personnel.

4.5.2 Individual autonomy in a corporate structure

Given what Wolf and Velasquez have to say about individual autonomy the example of the company that serviced my computer seems to reinforce their argument about individual moral responsibility. What I should be doing is focussing my efforts on identifying the individual non-sociopathic technicians who have failed to do their job

properly and hold them to account in terms of causal, practical and moral responsibility. Yet to only do this would be a mistake. Wolf and Velasquez over-emphasise the nature and scope of individual autonomy within a corporate structure. Christian List and Philip Pettit attribute moral responsibility (and some rights and duties) to groups, conceived of as entities that are distinct from and persist through changes to their individual members (List and Pettit 2011). They make the strong ontological claim that groups are a really existing presence in the world.⁷⁸ They are composites constituted over and above the aggregation the individuals. These groups possess, process and act upon beliefs and desires as individuals do. List and Pettit deny any metaphysical commitments to “mysterious forces”⁷⁹ or some substance out there in the world. Their really existing presence is derived from consistency and higher-level regularities derived from the emergence of coordinated psychologically intelligible dispositions of the group’s individual members. This coordination is far from straightforward insofar as it may be that there are group-level attitudes that a majority or all of the individual members reject.⁸⁰ The attitudes, actions, processes and goals of the group supervene on those of the individuals. So, the primary centre of responsibility is the group, not the individual (List and Pettit 2011).

There are two non-negotiable features of groups in this account: supervenience and rationality. The attitudes and actions of the group supervene on those of the individuals. This explains why group level attitudes may diverge from attitudes held by individuals. Any actual or possible individual or collective is by and large rational. Groups possess and act on shared intentionality. This account allows for a range of dispositions on the part of individuals towards the shared intentions. Some may

⁷⁸List, C., and Pettit, P., (2011): 3-4

⁷⁹*Ibid.*

⁸⁰For a detailed explanation of how this is possible see List, C., and Pettit, P., (2011)

enthusiastically embrace the intentions of the corporation. Others may go along with them for want of a better alternative. While others may act to fulfil intentions that they do not agree with but acknowledge others share. There is a varied pattern of coordination with some playing a large part while others play a much smaller role and the ascription of responsibility should mirror this distribution.

Organisations are designed and people in them trained such that decisions are taken and acted upon to fulfil the organisation's goals. This is why moral responsibility accrues to corporations as well as to some or all their individual members. The structured relationships, processes and goals of a corporation supervene on the thoughts, emotions and actions of their members who introject the prevailing culture of an organisation. This explains why a dysfunctional corporation endures in spite of changes to its individual members.

It is not the case that individual corporate members can simply refuse to carry out the organisation's group-level intentions. The corporation exercises control over the individual acting in a way that is intentional and rational through the culture of the organisation, its constitution, internal arrangements for the division of roles, lines of accountability, job-roles and so on. These are designed to ensure the individual members act appropriately. The actions of whistle-blowers demonstrate that individuals can resist the culture and practices of an organisation they find abhorrent.⁸¹ An organisation's culture and practices, as well as peer pressure, groupthink and financial pressures can lead to people doing things they might not normally consider acceptable or even agree with. The desires and intentions are there

⁸¹For example see *Enron: The Smartest Guys in the Room* (2005) dir. Alex Gibney (Jigsaw Productions, 2929 Productions, HDNet Films)

even if individuals disassociate themselves from them. We can view the corporation as an entity distinct from its individual members. In which case we can sensibly attribute moral responsibility to corporations qua corporations.

To explain the relationship between groups and individual members, Pettit uses an analogy with water being brought to the boil in a closed flask that causes the flask to break (Pettit 2007). Just as the water temperature controls for the breaking of the flask, the corporation exercises control over the individual acting in a way that is intentional and rational through the culture of the organisation (analogous to the temperature of the water), its constitution, internal arrangements for the division of roles, lines of accountability, job-roles and so on. These group-level arrangements ensure the individual acts in the appropriate manner. List and Pettit ascribe the groups the status of persons, arguing that they are fit to be judged and held responsible for their actions and possess rights and duties. Pettit uses the following slogan to explain what this means in practice:

“No incorporated agency without incorporated responsibility, and this, even when individual responsibility is diminished.”⁸²

The sanctions that flow from this kind of responsibility are the sanctions we normally associate with moral responsibility. Given the nature of the collectivist argument, the ascription of responsibility goes beyond what Pettit calls “the desk where the buck stops.”⁸³ There are three individually necessary and jointly sufficient conditions for an individual or a group to be held responsible: the individual or group faced a morally

⁸²Pettit, P., (2007): 172

⁸³*Ibid.* 173

significant choice, the individual or group knows what is at stake and they could have done otherwise (List and Pettit 2011). This diverges from Wolf's argument that having 'the right kind of inside' is a necessary condition for moral responsibility (Wolf 1985, Wolf 2013). Corporate bodies can be held morally responsible in the same way that individuals can be held morally responsible for their actions. This includes *mens rea* where corporations can display a guilty mind in the form of malice with foresight and recklessness. For example, Volkswagen intentionally cheated its way through global diesel emissions standards and then intentionally misled its potential customers about how environmentally friendly its cars are.⁸⁴ Wolf would argue that organisations do not possess a mind; there are only the minds of the individual members. The account of organisational responsibility offered by List and Pettit is consistent with Feinberg's notion of group liability with collective non-distributive fault. As in the example of the train robbery, when individual responsibility is diminished, collective responsibility remains intact. This addresses the problem of leftover blame identified by Wolf and Vasquez and can deal with cases like the *Herald of Free Enterprise* disaster.

Corporations, like bureaucracies, operate on a different time scale from their individual members in terms of planning and the scope of their actions. This makes them independent of their individual members to a very large extent. The complexity of their internal systems and arrangements make their actions and processes unclear and impermeable. It is not obviously the case that any individual can have an impact on the organisation, nor that the actions of the corporation are the expression of any one person's intentions. Their performance and internal systems and processes are amenable to change as a result of reform and modification but this can be very hard

⁸⁴'How Volkswagen's 'Defeat Devices' Worked' by Guilbert Gates, Jack Ewing, Karl Russell & Derek Watkins *The New York Times* 16.03.2017 Available at <https://www.nytimes.com/interactive/2015/business/international/vw-diesel-emissions-scandal-explained.html> Accessed on 01.06.2017

to achieve, or achieved very slowly, due to the extent to which the collective is independent of its individual members. This is why people who are appointed from the outside to radically reform a corporation find it hard if not impossible to significantly alter its culture and practices. Corporations and bureaucracies can absorb individuals, in spite of their best efforts to the contrary. Even very large corporations can do this by co-ordinating, subordinating and synthesising the actions and intentions of thousands of its various individual members. The structure of the organisation transforms these many and varied individual intentions and actions into truly corporate intentions and actions.

There are three reasons to accept the attribution of non-distributive collective moral responsibility to corporations:

1. The attribution of non-distributive collective moral responsibility to corporations addresses the serious problem of leftover blame, i.e. what is left over in terms of allocating responsibility that cannot be covered by the ascription of responsibility to individuals. There are occasions where individuals are not fully and/or clearly culpable. They may be blamelessly ignorant of the harm they have brought about. Individual contribution to harm done may be negligible and/or hard to trace. No individual could have made a difference were they to have acted otherwise. The organisational harm done is maximally wrong yet the harm done by each individual member is minimally wrong. There are cases where individuals know the harm that will be done by the group and what their individual contribution will be but feel pressured to comply. Such shortfalls are distressing to the victims since

although the individuals did something harmful collectively there is no individual or group that can be held responsible. This is exemplified in the *Herald of Free Enterprise* disaster where relatives of the victims were unable to prosecute those responsible for the negligence that led to 193 deaths. Although the inquiry into the disaster severely criticised the company operating the ferry, neither the company nor its individual employees were found guilty of a criminal offence. P&O European Ferries and several of their employees were charged with manslaughter, the judge in the subsequent trial ordered the jury to acquit the defendants. The relatives of the victims would reasonably expect the company and key individuals to be held to account for their negligence. In this case, no such accountability was forthcoming. In the accounts given by List and Pettit we can hold the group responsible for what it arranges to have done, the decisions it licenses and the internal organisation and coordination by which it makes possible the harmful action (Pettit 2007, List and Pettit 2011).

2. The account of groups chimes with our experiences of the psychopathology of organisational life such as the enduring ethos of an institution even when there is a large turnover of staff and the emergence of groupthink. There is talk of the character of an organisation that operates in a deep way and is resistant to change and persists through time. The existence of groups that supervene on individuals is derived from consistency, higher-level regularities and coordinated psychologically intelligible dispositions. This is what gives the organisation the intellectual and cognitive capacity for deliberation, the capacity to form intentions and the ability to act upon a range of complex

reasons. Such capacity is a necessary condition of being morally and practically responsible. It is these higher-level capacities that turn the actions of individuals into a different action that is the action of the organisation (which is them acting collectively.)

3. There is an instrumental advantage since this account may have a developmental impact on organisations that cause harm. If we hold corporations responsible for the harm they do we may be able to induce self-awareness and self-regulation towards better conduct. In cases where there is a deficit in individual accountability this account removes perverse incentive on the part of individuals where a collection of individuals could combine to cause harm and arrange things in such a way that not one of them is held responsible for that harm. This account may also create an upward pressure from individuals combining to force organisations to modify their behaviour.

In this chapter I have outlined and agreed with two views. The first view I agreed with is the view that a group can be more than the aggregation of its individual members. The second view I agreed with is the view of collectives as responsibility holders, non-distributively. In which case it is plausible to argue that collectives like corporations are morally responsible for what they do. If we accept this view of collectives as morally responsible for their actions we can hold them to account for their actions, which is important when we consider the serious harm they cause. We may also be able to induce self-awareness and self-regulation towards better conduct. This has implications for Young's individualistic arguments concerning responsibility across borders, which explicitly deny a role for collectives like states, international institutions

and transnational corporations as responsibility holders non-distributively. In the following chapter I examine an aspect of the debate about collective responsibility that is concerned with collective guilt and collective guilt feelings.

Chapter 5

Collective Guilt and Collective Guilt Feelings

In this chapter I examine the topic of collective moral guilt and collective guilt feelings. I introduce this subject for three reasons. The first reason is that I aim to show that the issue of the distribution of responsibility does not arise for guilt. The second reason is that I want to further address Susan Wolf's argument that we cannot attribute moral responsibility to collectives because they lack the right kind of inside (Wolf 1985, Wolf 2013). The third reason is that if a collectivist account of joint actions and intentions is plausible then this adds weight to the argument that moral responsibility can be attributed to collectives qua collectives. I also evaluate the arguments regarding the instrumental value of guilt. Unlike I. M. Young I am sympathetic to the view that guilt can have an instrumental value but, like Arendt and unlike Gilbert, I want to confine guilt to individuals (Young 2013b, Arendt 1954/1994, Arendt 1987, Gilbert 2002). In Section 5.1 I discuss Margaret Gilbert's arguments concerning collective guilt and collective guilt feelings. In Section 5.2 I evaluate Gilbert's plural subject account. In Section 5.3 I examine the relationship between collective responsibility and collective guilt. In this section I also evaluate Young's scepticism regarding the instrumental value of guilt.

5.1 Margaret Gilbert's argument

Margaret Gilbert is concerned with collective moral responsibility expressed in terms of collective guilt feelings (Gilbert 2002). In Gilbert's account the relationship between being responsible and being guilty is that the latter is a way of being responsible. We can view Gilbert's approach as a rejoinder to Susan Wolf's argument that collectives qua collectives cannot be morally responsible because they are unable to sympathetically identify with the reasons for behaving (or not behaving) in certain ways. As Martha Nussbaum acknowledges, there is an instrumental reason for attributing the feelings and emotions that go with moral responsibility like shame, guilt and regret that is to do with those emotions serving as a spur to action (Nussbaum 2013).

Gilbert argues that collectives qua collectives can act, can act freely (insofar as they could have done otherwise) and hold beliefs about the rightness or wrongness of their actions. Therefore, collectives qua collectives can be morally responsible in the same way that individuals can be morally responsible. Crucially, Gilbert provides a model for how collectives feel guilt that satisfies conditions for attributions of collective moral responsibility. This is important because if Gilbert's argument about collective emotions succeeds then Wolf's argument is mistaken. If having feelings of guilt is necessary for being guilty then *contra* Wolf, Gilbert shows that some groups, non-distributively, meet that condition.

Gilbert's account views guilt as curative insofar as it encourages the restoration of good relations between the victim and the perpetrator of a wrongful act.⁸⁵ According to Gilbert the victim of a harmful action is more likely to feel well disposed towards the individual that caused the harm if the latter feels guilty. Feelings of guilt may encourage the wrongdoer to engage in constructive self-examination, change and make amends (Gilbert 2002). If collectives experience feelings of guilt then it could be of significant practical importance. Guilt can be an important spur to action if those who experience guilt feelings experience optimal levels of guilt. A well-developed capacity for guilt leads to a morality of reparation and empathetic regard. That guilty feelings have value, however, does not prove it is possible for a collective to feel guilt, though it does demonstrate that whether such emotions are possible is important. I discuss further the instrumental value of guilt in Section 5.3.2 below.

Gilbert's argument begins with an account of what it is for a collective to intend to do something and then act on that intention. According to this account, there is a collective that intends to ϕ if and only if its members are jointly committed to intend as a collective body to ϕ . Her view is that a genuinely collective intention is something more than an overlap of individual intentions.⁸⁶ While Gilbert accepts that this means the collective should be treated as a thing in itself, she stops short of endorsing the view that the collective is conceptually prior to its individual members.⁸⁷ I return to this point in Section 5.2 below.

Gilbert develops a related account of collective beliefs and judgements. She then argues that a collective as such can feel guilty of performing a wrongful act. Gilbert

⁸⁵Gilbert, M., (2002): 117-118

⁸⁶Gilbert, M., (2002): 122

⁸⁷*Ibid.* 123

defines “a feeling of personal guilt”⁸⁸ as a feeling of guilt over one’s own actions. She rejects the view that collective guilt feelings are an aggregate of individual feelings of personal guilt. Gilbert argues that it is intelligible for the group’s members to experience “membership guilt feelings”⁸⁹ over what the group has done if they were party to the joint commitment that underpins the collective intention and action.

Gilbert’s account of collective guilt feelings is separate from her account of membership guilt feelings. She develops a plural subject account of collective guilt feelings derived from a ground-level joint commitment by the group’s members to feel guilt as a body.⁹⁰ This means that the collective qua collective feels guilty, not that *X* and *Y* feel guilty for the collective. Those members of the group who are party to this joint commitment may experience ‘pangs’ of guilt associated with personal and membership group feelings.⁹¹ The pangs of guilt so described by Gilbert may be thought of as providing a phenomenology of collective guilt. Feeling-sensations like ‘pangs’ of guilt or the ‘sting’ of shame are not an essential feature of Gilbert’s account of collective responsibility. Gilbert’s view is that in order to feel guilt, an individual must have certain thoughts about her situation and be disposed to act in certain ways. If she feels guilt over what she has done then she must believe that she has done something wrong. For Gilbert, this cognitive state lies at the heart of the emotion rather than specific feeling-sensations.⁹² Gilbert’s account of collective guilty feelings does not rest on a commitment to specific or any phenomenological conditions for types of emotions. What matters is the individual’s judgement that she was wrong to do the thing she feels guilty about. According to Gilbert, while guilty feelings may or

⁸⁸*Ibid.* 130, 131 *passim*

⁸⁹*Ibid.* 130, 133 *passim*

⁹⁰*Ibid.* 124, 125 *passim*

⁹¹*Ibid.* 119, 120 *passim*

⁹²*Ibid.* 119-120

may not involve certain types of feeling-sensations they do entail a kind of belief or judgement about the action performed.⁹³ Gilbert aims to show that people are right to talk holistically about the beliefs, judgements and responsibility of groups. If those collectives believe or judge that they have done something right or wrong then it makes sense for them to be collectively guilty. In this way, collectives do have the kind of inside in terms of cognitive states to do with attitudes (beliefs and intentions) required for moral responsibility. In Gilbert's account collective guilt is a way of being collectively responsible.

In Gilbert's account, the existence of collective responsibility has no implications with respect to the personal responsibility of the group's individual members. For Gilbert, a collective is a technical term that connotes a stronger version of a group. It refers to a population she conceives of as a *genuinely collective* (original emphasis) subject of intention and action if and only if it can be regarded as having an intention of its own.⁹⁴ There is an intention of the population *as a whole* (original emphasis).⁹⁵ A collective is something more than an overlap or aggregate of the intentions of individuals. This allows for the possibility of a radical disjunction between the specific intentions of groups and the intentions of its individual members. For Gilbert, a genuinely collective action requires a collective goal or intention the collective's members are jointly committed to intend to fulfil. For this reason, a joint commitment is not a set of personal commitments; it is a truly joint commitment of two or more persons that neither side can rescind unilaterally. Collectives formed in this way are

⁹³*Ibid.* 121-122

⁹⁴*Ibid.* 123, 125 *passim*

⁹⁵*Ibid.* 123

the potential subjects of moral responsibility in Gilbert's account, which turns on the notion of 'joint commitment.'⁹⁶

"A population *P* has a collective intention to do *A* if and only if the members of *P* are *jointly committed* to intending *as a body* to do *A*."⁹⁷

When *X* and *Y* make a joint commitment they constitute a plural subject. This can be explained by first considering what it means for an individual to make a commitment. Suppose that she decides to ϕ . This can be seen as a personal commitment to ϕ failing a change of mind. A joint commitment is a truly joint commitment of two or more persons rather than a set of personal commitments. The initiators of a joint commitment create the whole of it by working with the other parties. A joint commitment does not break down into component parts though it does have implications for individual members. No individual can unilaterally rescind the commitment unless there are special side arrangements. A collective enters into a joint commitment in much the same way an individual does through an expression of a personal decision that is out in the open for all concerned. Some joint commitments are arrived at in an explicit manner while some others are arrived at less explicitly over a period of time. According to Gilbert, collective responsibility is intelligible if the individual members are party to the joint commitment that lies at the base of the relevant collective intention and action. The collective has acted in a blameworthy or praiseworthy fashion, so it is collectively responsible for that act.

⁹⁶*Ibid.* 127, *passim*

⁹⁷*Ibid.* 125 Original emphasis

Gilbert further argues that there can be an authority-producing joint commitment where the members of a collective are jointly committed to ϕ even if not everyone in that collective knows or conceives of the content of that commitment. This is because there is a ground-level joint commitment to authorise a body to act on the collective's behalf. In the case of the nation this can be the government, in the case of a battalion of soldiers it can be the battalion's commander and in the case of a gang it can be the gang's leader. In this way a collective qua collective can be jointly committed to ϕ .

When it comes to larger groups such as whole nations, Gilbert thinks that knowledge of these commitments can filter through to others in a general sense. This account of derived joint commitments allows Gilbert to provide an account of collective moral responsibility for actions that are the actions of the collective qua collective if only some members of the group act for the group as a representative. This may entail a minority of the collective or even just one member of the collective being jointly authorised to act on the collective's behalf. For a group to jointly commit to ϕ they constitute themselves as a single body to ϕ . To act on this joint commitment is to act collectively. Gilbert's argument is that a collective constituted in this way is also jointly committed to collectively believing something about ϕ (Gilbert 2002). If they collectively believe or judge that ϕ is wrongful then it is possible they may be collectively responsible for ϕ .

Gilbert's account of joint commitments and joint actions is holistic because it cannot be analysed as an aggregate of individual commitments. The parties to a joint commitment form an irreducible plural subject.⁹⁸ The actions of plural subjects should

⁹⁸*Ibid.* 123

be understood as actions based on commitments and intentions that are over and above the commitments and intentions of individual members of the collective.

“A population *P* collectively performed action *A* if and only if the members of *P* were jointly committed to intending as a body to do *A*, and, acting in the light of this joint commitment, relevant members of *P* acted so as to satisfy this intention.”⁹⁹

Gilbert’s analysis of collective action means that it is intelligible to argue for the collective guilt of any member of the collective including individuals who do not directly contribute to ϕ . This is because they are linked to ϕ through their participation in the foundational joint commitment to ϕ . The joint commitment is crucial to Gilbert’s argument because it grounds each member’s ability to justifiably say, “We did it.”¹⁰⁰ In which case, collective guilt can exist in the absence of the personal guilt on the part of individual members.

Gilbert then develops an account of collective belief that runs alongside her account of joint commitments so that:

“Members of a population *P* collectively believe that *p* if and only if they are jointly committed to believe as a body that *p*.”¹⁰¹

These beliefs include moral beliefs so by Gilbert’s lights it makes sense to say that a collective did something it believes to be right or wrong. Such collective beliefs are

⁹⁹*Ibid.* 127

¹⁰⁰*Ibid.* 136

¹⁰¹*Ibid.* 127

independent of the beliefs of the individual members of the collective. The members of the collective can jointly commit to a belief that the collective acted rightly or wrongly even if not all members of the collective participated fully or at all in the performance of the action in question. In which case, the guilt of a collective is to be sharply distinguished from the guilt of any of its individual members. A collective can meet Gilbert's standards for collective guilt in cases where some members did not directly participate in the performance of the collective act and where the blameworthiness or praiseworthiness of particular group member(s) are clearly absent even if there is a clear-cut case of collective guilt. This is because being party to the foundational joint commitment means that individual members of the collective have attitudes (beliefs and intentions) in an irreducible *We*-form that cannot be analysed in terms of *I*-attitudes. The individual thereby becomes *one of us*, with *us* being the collective that intends to ϕ , is jointly committed to ϕ , really does ϕ and *post facto* jointly commits to holding certain beliefs about ϕ . This joint commitment to holding certain beliefs about ϕ is important because it is part of the process by which the irreducible plural subject is formed.

When it comes to what it is for a collective to feel guilt about what it the collective qua collective has done, Gilbert rejects aggregate accounts of feelings of individuals' personal guilt and of feelings of membership guilt. Instead she develops a plural subject account of collective guilt feelings.

“For us *collectively to feel guilt over our action A* is for us to constitute the plural subject of a feeling of guilt over our action *A*.”¹⁰²

¹⁰²*Ibid.* 139 Original emphasis

This account of collective guilt feelings does not entail that individual guilt feelings are prior to those of the collective. For a collective to feel guilt over its action *A* is for the collective to form a plural subject committed to feeling guilt over its action *A*. The notion of commitment is important to Gilbert's account because it indicates the strength of the obligation on the part of the individuals concerned to form a plural subject with regard to their intention to ϕ , really does ϕ and *post facto* holding certain beliefs about ϕ . The plural subject account of collective guilt is based on a notion of an irreducible collective subject so collective guilt is non-distributive. It is neither necessary nor sufficient for members of the collective to feel personal guilt over their actions in relation to the collective act or to feel membership guilt over the collective act. In the absence of a jointly authorised body each member of the collective jointly commits to feel guilt as a collective. This means that the collective guilt results from a bottom-up process involving the individual members of the collective. There must also be common knowledge of this joint commitment and expressions of collective guilt. In making this argument, Gilbert resists any commitment to a necessary phenomenological condition of feeling guilt, though she acknowledges that some individual members of the collective may experience feeling-sensations and these are best thought of as pangs of collective guilt.¹⁰³ Gilbert's plural subject account makes sense of collective guilt feelings in collectives.

Gilbert presents a number of different examples to illustrate her account of collective guilt feelings. One is an atrocity committed by a battalion of soldiers.¹⁰⁴ The commander of a small battalion orders the battalion to destroy a village along with its inhabitants. En route to the village one soldier decides the intended action is wrong

¹⁰³*Ibid.* 141

¹⁰⁴*Ibid.* 132

and feigns injury to avoid taking part. Another soldier is genuinely injured as the battalion approaches the village and cannot participate. A third soldier has a change of heart during the atrocity pretending to take part while really helping some of the villagers escape. In the end less than half of the battalion takes part in the attack on the village.

In this scenario Gilbert's plural subject account of collective responsibility runs as follows. Collective guilt is appropriate if each member of the collective jointly commits to the collective intention and subsequent action and/or jointly commits to the commander deciding what the group's intentions should be. So, if the commander decides to destroy the village and enough of the members of the group participate and the village really is destroyed we can say that the group fulfilled its intention. In Gilbert's account the battalion is collectively guilty because each member jointly committed to the collective intention and subsequent action, they jointly committed to the commander deciding what the group's intentions should be and because some of them actually carried out the atrocity. The battalion may coherently accept collective guilt for that act. Whether they actually accept that guilt is another thing. This requires a joint commitment on the part of the individual members to be collectively guilty. The members of the battalion will characterise the action as wrong when discussing it among themselves, they will not propose performing another similar action and will challenge any other member of the collective who does so. They attribute grounds for guilt feelings to the collective (*we have done something wrong and we should feel guilty*) and will remonstrate with members of the group who disagrees that the group should feel guilty. On the plural subject account, collective guilt feelings are analogous to personal guilt feelings at the collective level. This is because the collective

guilt feelings result from the collective's joint commitment to feel guilt. This means that the collective commits to feeling guilt qua collective without individual members feeling guilt qua individuals.

Margaret Gilbert is right to try and make sense of commonplace talk of collective moral responsibility. Her plural subject account of collective responsibility captures the gist of such talk and, therefore, the existence of genuinely collective subjects. For Gilbert, the normative status of being guilty does not entail feeling-sensations associated with guilt, though it would make sense if individuals and collectives did experience such guilty feeling-sensations. Gilbert may or may not be right about the phenomenology of feeling-sensations but her account does not hinge on this. Her account of joint intentions, joint commitments, joint actions and joint beliefs about those actions addresses Wolf's concern that collectives cannot be held morally responsible for their actions because they lack the right kind of inside. Gilbert has shown that it does not matter whether the collective experiences certain feeling-sensations qua collective and/or qua individual members of the collective. The individual members can jointly commit to holding certain beliefs about their actions and jointly commit to collective moral responsibility as a result of those beliefs. This joint commitment is independent of the responsibility of individual members of the collective. This is a joint commitment in a strong sense that cannot be rescinded unilaterally by any individual member unless there are special side arrangements. Collectives characterised by Gilbert as genuinely plural subjects have the kind of inside necessary for collective responsibility. The right kind of inside is to do with the members of the collective having irreducible *We*-form attitudes (beliefs and intentions) and mutual beliefs rather than emotions. So it does not matter whether the collective

can or does feel guilt. This said Gilbert's account accepts that it is plausible to argue that the collective qua collective may experience the feeling-sensations associated with beliefs about the rightness or wrongness of its actions so this is a welcome, but additional extra.

There are two main problems with Gilbert's plural subject account. The first is to do with her account of collective responsibility arising from collective action. The second is to do with her argument concerning collective guilt and collective guilt feelings. I deal with each of these separately below.

5.2 Gilbert's plural subject account

In Gilbert's plural subject account, collectives qua collectives are dependent on their individual members. Gilbert explicitly argues that collectives are irreducible and something more than mere aggregates of their individual members.

"I refer to populations as "collectives" when I conceive of them as genuinely collective subjects of intention, action, and so on. I take it that a population is a *genuinely collective* subject of intention if and only if, roughly, it can plausibly be regarded as having an intention *of its own*, an intention, if you like, of the population *as a whole*."¹⁰⁵

Yet by Gilbert's own lights, for a collective to exist in its own right there must be individual members that relate to each other in special ways in order to form joint

¹⁰⁵ *Ibid.* 123 Original emphasis

intentions and joint actions and to hold joint beliefs. She is non-committal when it comes to the view that collectives are conceptually prior to their individual members.¹⁰⁶

Gilbert's account of how plural subjects come to be formed is a 'bottom-up' account of individuals who come together to agree joint intentions and joint commitments, perform joint actions and interact with each other to form joint beliefs about those actions. On the basis of those joint beliefs, the members of the collective form further joint commitments to being collectively guilty. This may also entail a joint commitment to experience the feeling-sensations associated with praise or blame. The idea is that for a collective to be guilty is a function of its joint commitment to being guilty. So, while the moral responsibility of the collective qua collective may diverge from the moral responsibility of some or all of its individual members qua members, the attribution of that moral responsibility is reached via the members of the plural subject acting qua members.

While Gilbert provides a plural subject account of collective guilt where there may be a radical disjunction between the guilt of the collective and the guilt of its members, those collectives are not autonomous. They form intentions, act and hold beliefs in virtue of the intentions, actions and beliefs of their individual members. Interpreted in this way, Gilbert's account of collective moral responsibility is similar to Seamus Miller's individualistic account of collective responsibility outlined in Chapter 3 (Miller 2010, Miller 2011). Gilbert's plural subjects act through their individual members as illustrated by her example of the battalion of soldiers.

¹⁰⁶ *Ibid.*

Gilbert's account cannot deal with those cases where individuals hold incorrect beliefs about the actions of the collective, for example by mistakenly believing that the collective has (or has not) caused harm. Nor can it deal with those cases where the members are of the view that the actions of the collective are nothing to do with them and they refuse to jointly commit to attributing collective responsibility, or they are unable to agree to do so. In which case, we need an account of collective guilt that does not depend so intimately on the intentions, beliefs, actions and commitments of the individual members.

The plural subject account of collective guilt yields some other counter-intuitive results, which are raised in the following section where I discuss the relationship between collective responsibility and collective guilt

5.3 The relationship between collective responsibility and collective guilt

In this section I address Gilbert's arguments to do with collective guilt and collective guilty feelings. There are two salient issues here, the first to do the difference between collective responsibility and collective guilt. The second is to do with the instrumental value of collective guilt. I address these in turn below.

5.3.1 Collective responsibility versus collective guilt

In his paper about collective responsibility, Joel Feinberg makes a firm distinction between the normative status of being guilty and of being responsible (Feinberg 1968). According to Feinberg, being guilty is something very specific; it consists in the intentional transgression of a prohibition and the guilty parties must pay their debts to society.¹⁰⁷ Responsibility is different from guilt. It is to do with liability for harm done where the responsible person either did the harmful act or made a substantial contribution to it. There is a causal connection between the individual's faulty actions and the consequences of those actions (Feinberg 1968). Feinberg thinks it is possible for groups to be held collectively responsible for their actions but there is no such thing as collective guilt.¹⁰⁸ In this section of the chapter I want to show that it is more plausible to think in terms of collective responsibility and that like Arendt and Feinberg, guilt should be confined to individuals (Arendt 1954/1994, Arendt 1987, Feinberg 1968).

Hannah Arendt endorsed Feinberg's distinction between guilt and being responsible, further arguing against the idea of collective guilt (Arendt 1987):

“Where all are guilty nobody is. Guilt, unlike responsibility, always singles out; it is strictly personal.”¹⁰⁹

Arendt argued that when we declare our guilty feelings for events we did not cause we are engaging in “phony sentimentality.”¹¹⁰ Arendt was writing about guilt and responsibility mainly with reference to Nazi Germany. Her view was that to hold a nation or entire ethnic group guilty is to fail to single out some (the guilty) from others

¹⁰⁷Feinberg, J., (1968): 676

¹⁰⁸*Ibid.*

¹⁰⁹Arendt, H., (1987): 43

¹¹⁰*Ibid.*

(the innocent), which is the purpose and practical meaning of guilt (Arendt 1954/1994, Arendt 1987). Guilt is something that is objective and attributable to particular individuals. It singles out individual wrongdoers. People cannot *be* guilty of something they did not do (my emphasis). Arendt argues that it is also wrong to *feel* vicarious guilt given her disparaging use of the word sentimentality (my emphasis). Arendt's view is that engaging in this kind of sentimental discourse distracts from the more demanding task of taking responsibility for present day structural injustices, for example by dismantling them.

Gilbert's account could be regarded as a response to Arendt's claim. Gilbert argues that her plural subject account of collective guilt can be applied to whole nations. Gilbert does not necessarily have in mind what she calls a feature-defined group¹¹¹ by which she means sets of individuals with certain common features like ethnicity, gender, social status and economic class, for example.¹¹² Such groups are not necessarily collective subjects. Gilbert argues for a plural subject account of collective guilt that involves a joint commitment to feel guilt as a collective body. We have seen that it is neither necessary nor sufficient for members of the collective to feel membership guilt or personal guilt over the actions of the collective. We have also seen that it is neither necessary nor sufficient for all members of the collective to have participated in the action in question, or even be aware of it or be party to the ground-level agreement to authorise an individual or sub-group to act on behalf of the collective. Gilbert applies this argument to large-scale cases involving constitutionally elected governments.¹¹³ In such cases it may be understood that the government, acting through its officials, is entitled to determine the emotional state of its citizens by

¹¹¹Gilbert, M., (2002): 124

¹¹²*Ibid.* 123

¹¹³*Ibid.* 139-140

jointly committing them to feel guilt as a body. The government may try to make good the harm done by an act of historic injustice by saying something along the lines of, “The whole nation feels guilt over the way it treated you.”¹¹⁴

Applying the plural subject account to large-scale cases involving whole nations is problematic. It is not clear in Gilbert’s account how the members of such a large collective can agree to a set of joint beliefs about a historic act of injustice and further agree to a joint commitment to feel collective guilt as a body. To some extent Gilbert’s account can accommodate such concerns. She clearly has in mind the disjunction between the moral status of the collective and the moral status of its members that her account allows for and the way in which individuals can authorise a body to act on its behalf, in this case the constitutionally elected government. Nonetheless there are still strongly counter-intuitive aspects to Gilbert’s application of her plural subject account to large-scale cases like the collective guilt of whole nations or transnational corporations. For example, the authorising body can act on behalf of the collective by issuing the apology without all or even most of the members of the collective knowing what is happening. It can also commit the collective to a belief about the action without most of the members knowing that their collective so believes, or agreeing with that belief. Gilbert argues that in large groups where people do not know each other personally they must openly express their readiness to be jointly committed with other members of the collective. They must do so in such a way that knowledge of these expressions filters through to other members so they eventually become common knowledge. This process may work for small groups like a battalion of soldiers but is unlikely to be satisfactory when it comes to large groups like nations.

¹¹⁴*Ibid.* 140

This is an argument against the scope of Gilbert's account and its focus on collective guilt rather than collective responsibility.

Hannah Arendt well explains why focussing on feelings of guilt as Gilbert does is unhelpful:

“Morally speaking, it is as wrong to feel guilty without having done anything specific as it is to feel free of all guilt if one actually is guilty of something. I have always regarded it as the quintessence of moral confusion that during the post-war period in Germany those who personally were completely innocent assured each other and the world at large how guilty they felt, while very few of the criminals were prepared to admit even the slightest remorse. The result of this spontaneous admission of collective guilt was of course a very effective, though unintended, white-wash of those who had done something: as we have already seen, where all are guilty, no one is.”¹¹⁵

If all are guilty this dilutes the power of identifying the individuals who actually committed these wicked acts. This is not to argue that we should only be concerned with individual wrongdoers in large-scale cases like Nazi Germany. Where there is talk of collective guilt it would be better to speak of vicarious responsibility. Gilbert quotes Franklin Roosevelt on the issue of collective responsibility with reference to Nazi Germany:

“Too many people here and in England hold to the view that the German people as a whole are not responsible for what has taken place – that only a

¹¹⁵Arendt, H., (1964 [2003]): 28

few Nazi leaders are responsible. That unfortunately is not based on fact. The German people as a whole must have it driven home to them that the whole nation has been engaged in a lawless conspiracy against the decencies of modern civilisation.”¹¹⁶

People can be vicariously responsible for things they are not causally connected to, or where the causal connection is weak or unclear. This is what Roosevelt means when he says that the whole German nation was involved in the lawless conspiracy against the decencies of modern civilisation. Vicarious responsibility seems most natural when speaking of individuals, for example when they have to stand to account for what their siblings or parents may have done.

5.3.2 The instrumental value of collective guilt

Iris Marion Young has two conceptual arguments and five pragmatic arguments for distinguishing guilt from responsibility and in favour of ascribing responsibility but not guilt in a society where there are structural injustices (Young 2013b). The first conceptual argument is that guilt requires blameworthiness, but we are often not blame for the unjust structures in society. If we fail to monitor those institutions and be alert to the structural injustices they perpetuate we are negligent, which itself may give rise to guilt. The second conceptual argument is that guilt is backward looking while responsibility is forward-looking. Engaging in the type of discourse concerned with attributing guilt for historic wrongs means we become mired in the past, succumbing to feelings of resentment and revenge. We should not forget historic acts

¹¹⁶Gilbert, M., (2002): 122

of injustice, but expecting individuals and groups to feel guilt for those wrongs does not help the process of reparation. It is also incoherent to blame someone for something they have not done.

Now to Young's five pragmatic arguments (Young 2013b.) First, guilt distracts from the work of fixing current structures by focussing on identifying the blameworthy. We should be attentive to the historical context of present injustices. This is how learning takes place and moral incentives are created. Seeking to ascribe guilt for historic wrongs distracts from this process. Young's second argument is that by focussing on a few blameworthy individuals, the rest of us who participate in unjust structures are let off the hook. A careful analysis of the ways in which many people benefit from those structures, which also oppress and marginalise others, can lead to a greater awareness of our shared responsibility to eradicate them. The third argument is that by drawing our attention to the actions of individuals a concern with guilt can distract us from the background conditions underlying unjust structures. The fourth argument is that focussing on blame and guilt leads to people being defensive and uncooperative while focussing on responsibility is more likely to lead to co-operation. On the one hand, guilt can be a powerful motivator to make good the harm that has been done. On the other hand, constantly telling people how bad they are will demotivate them, especially if they did not commit the unjust acts. Finally Young argues that guilt leads to solipsism where we are more concerned with the state of ourselves than society as a whole. Reflection and self-examination is an important part of the process by which we come to look outward and focus on others. An excessive preoccupation with guilt for things we have not done is a symptom of narcissistic self-obsession.

Martha Nussbaum argues that when it comes to how we stand in relation to systemic injustice, guilt is “part of the mix.”¹¹⁷ An optimal amount of guilt correctly attributed with the right intention can be a powerful and forward-looking incentive to make reparations. If guilt is misapplied and people are overburdened with guilt and if the wrong people are targeted then it will breed resentment and anger making people defensive when they should be open to change. It will also be counter-productive if guilt is attributed in a way that hectors people and diminishes their self-respect.

Hannah Arendt was interested in the conditions under which many people are responsible without being guilty (and a relatively small number of people are guilty *and* responsible). Young’s view is that our social relationships and our actions as members of a contemporary community are what make us more or less responsible for the consequences of the community’s background conditions and structural injustices (Young 2013b). Arendt was concerned with a specific historic event and was writing relatively soon after that event so her notion of responsibility seems backward looking to Young. Arendt’s model of responsibility is concerned with those who were guilty and/or responsible for past acts like the Nazi atrocities. Young is concerned to develop a notion of responsibility that is forward-looking:

“This responsibility falls on members of a society by virtue of the fact they are aware moral agents who ought not be indifferent to the fate of others and the danger that states and other organised institutions often pose to some people. This responsibility is largely unavoidable in the modern world, because we participate in and mainly benefit from the operation of these institutions.”¹¹⁸

¹¹⁷Nussbaum, M., (2013): xxiv

¹¹⁸Young, I. M., (2013b): 92

A person has a responsibility now in relation to current events and their future consequences. Another important difference between Young's notion of responsibility and Arendt's is that while Arendt was concerned with extraordinary and egregious acts of injustice such as genocide, Young is more concerned with everyday acts of so-called 'ordinary'¹¹⁹ structural injustice such as racism and poverty.

In this chapter I have discussed Margaret Gilbert's account of collective guilt and collective guilt feelings. I have also discussed the instrumental value of guilt. I want to develop an account of responsibility that applies both to collectives and individuals but, like Arendt, I would like to confine guilt to individuals. In which case the issue of distribution does not arise for guilt. We should shy away from burdensome misattributions of guilt, collective or otherwise, because doing so leads to defensiveness and evasion on the part of those who are being blamed for things they are not responsible for. The excessive and repeated use of the language of guilt, liability and blame will lead to this sort of response. Gilbert rightly argues that guilt is a powerful incentive to make reparations when it is applied in the right way. Guilt can give individuals a developmental push towards making good the harm they have done. Yet endlessly flagellating ourselves for things we have not done is incoherent and counterproductive, leading to outrage, bitterness and denial that prevents us from taking responsibility for putting things right. This is why the language of responsibility rather than guilt is better suited to how we think about our relation to structural injustices. The focus should be on developing a collective recognition of responsibility for injustice. In spite of Young's concerns, Arendt's account of collective responsibility does have contemporary relevance, particularly in relation to her view of collective

¹¹⁹ *Ibid.* 93

responsibility being linked to the *polis* and our shared humanity. Young's idea of a responsibility derived from our membership of a political community is influenced by Arendt's similar views. We should also be attentive to the important difference in their accounts between a shared responsibility and a collective responsibility. Young gives an account of shared responsibility while Arendt is more concerned with the idea of collective responsibility. This has significant implications for my account of responsibility that can be assigned to collectives and to individuals, which does not entail collective guilt or collective guilt feelings. I develop this further in the following chapter. This will be relevant to large-scale cases of structural injustice that cause serious, lasting and widespread harm.

Chapter 6

Collective Moral Responsibility

In this chapter I aim to develop an account of responsibility that applies to individuals and to collectives. I will show that Young's social liability and social connection models can be adapted so they each apply to both individuals and to collectives qua collectives (Young 2013f). My account is based on the idea of a collective responsibility rather than a shared responsibility. In Sections 6.1 and 6.2 I discuss Young's liability and social connection models of responsibility respectively. In Section 6.3 I discuss the political nature of collective moral responsibility. In spite of its political nature, this notion of collective responsibility remains in the moral domain. In Section 6.4 I develop an account of collective responsibility based on a combined approach to the responsibility as liability and responsibility as social connection models. I do this with reference to Young's arguments concerning responsibility across borders (Young 2013d).

Young argues that a sensible understanding of individual responsibility should refer to the structural constraints and opportunities she faces *and* to her choices and actions in relation to them (Young 2013e). An account that only focuses on individual responsibility fails to notice the structural and socio-economic context that makes features of a person and her situation advantageous or disadvantageous. The relevant

circumstances that are beyond an individual's control and are likely to affect how her life goes include:

1. Institutional rules.
2. The power individuals and groups have within institutions
3. The way that social processes have become materialised in the built environment, and,
4. The cultural habits that people have formed (Young 2013a).

Institutional decisions make some people vulnerable to domination, exploitation and exclusion, e.g. by narrowing the options they have. Institutionalised relations of power enable some people to have greater command over resources than others. That there is injustice implies there is responsibility of some kind. The guiding question is how individuals and collectives should view their responsibility in relation to structural injustice? Young's answer is the social connection model of responsibility, which she contrasts with a liability model of responsibility. A key feature of Young's analysis of structural injustice is that it is not possible to identify how the actions of a particular individual(s) directly produced harm to others. Her response to this problem is to develop an individualistic account of responsibility for justice that omits a role for collectives as non-distributive responsibility holders. In Section 6.4 I develop an account of collective responsibility that does the institutional work that Young's account denies.

6.1 *Responsibility as liability model*¹²⁰

¹²⁰Young, I. M., (2013f): 97-104

The liability model is concerned with blaming a person or group for criminal wrongdoing, or finding them at fault in the occurrence of harm. To be liable in this sense the individual, either individually or as part of a group, must be shown to have caused the harm by their actions, or a criminal failure to act, and to have valid justification or excuses that override holding the individual responsible. This model can also apply to collectives like corporations where it can be shown that the collective qua collective can be treated as a responsibility holder. The liability model is not well placed to assign responsibility in relation to on-going contemporary structural injustices. It is more concerned with identifying individuals and groups who are liable for their actions, which are causally connected to the harm in question.

The main reason Young thinks that the liability model is not applicable to cases of structural injustice is that in those cases the structure is produced by many people who are acting in accordance with their own best interests and adhering to normally accepted rules and practices. A further problem is that the liability model is not well suited to assigning individual or collective responsibility in cases of structural injustice where we are unable to say that somebody is responsible for the harm that has been caused. Also, the language of liability may force people to adopt a defensive attitude, which can obstruct the goal of social transformation through policy reform to address structural inequalities. Young agrees with Arendt's distinction between guilt and political responsibility. We are responsible for structural injustice to the extent that we participate in the on-going operation of a society where such injustice occurs. The responsibility is a political responsibility insofar as it derives from our membership of the *polis* (Arendt 1987). This does not make us guilty or blameworthy for structural injustice. Responsibility in that sense should be reserved for those individuals and

groups who can be specifically identified as intentionally causing the harm, usually knowing what they are doing.

This relates to the distinction between Christopher Kutz's notion of unstructured collective harms and Young's argument about structural injustice discussed in Chapter 2 (Kutz 2000, Young 2013e). In Kutz's account, an unstructured collective harm, like the pollution caused by motorists, results from a confluence of individual behaviour.¹²¹ Young thinks that the pollution caused by motorists is an example of structural injustice, but this should not be dealt with under the liability model of responsibility because there is an absence of intent to cause the harmful outcomes. Therefore, the language of blame, guilt and liability is not relevant in such cases, unlike in cases where there is an intention to participate in a collective activity designed to cause harm. Young aims to limit the application of the liability model to cases where a wrong can be pinned on someone who did something or could have prevented it. When it comes to structural injustices Young argues for a different conception of responsibility, which she calls the social connection model (Young 2013f).

6.2 *Responsibility as social connection model*¹²²

This model distinguishes assigning responsibility from finding liability. There are several ways of using the term 'responsible' in ordinary language. The first is to do with being guilty or at fault. This relates to Young's liability model of responsibility.

¹²¹Kutz, C., (2000): Chapter 6

¹²²Young, I. M., (2013f): 104-122

Another ordinary language use of the term ‘responsible’ is to do with people having certain responsibilities in virtue of their social roles or positions. The social connection model draws mainly on this notion of responsibility and is to do with how individuals fulfil their responsibilities as citizens. It shares with the liability model a concern with the causes of wrongs in the form of structural injustice.

Individuals have responsibilities under the social connection model according to Young because those who participate in the production and reproduction of structural processes with unjust consequences have a shared responsibility to organise collective action to transform those structures. Many benefit from and are privileged in the same unjust structures that exploit, oppress and marginalise others. It is unlike the liability model because no one is specifically liable for the harm done. This is unless a causal connection can be traced to an individual or groups of individuals, but this is unlikely given the nature of structural injustice. Individual wrongdoers are not isolated under the social connection model. Instead, it brings attention to background conditions. Its main purpose is forward-looking insofar as it requires individuals to organise to reform unjust structures so their outcomes will not be harmful (Young 2013c). Under the social connection model the responsibility is general and shared rather than particular and individualised as it is in the liability model.

6.3 The political nature of the social connection model of moral responsibility

Young’s social connection model is heavily influenced by the work of Hannah Arendt, whose formulation of collective responsibility is worth quoting at length:

“This vicarious responsibility for things we have not done, this taking upon ourselves the consequences for things we are entirely innocent of is the price we pay for the fact that we live our lives not by ourselves but by our fellow men and that the faculty of action, which, after all, is the political faculty par excellence, can be actualised only in one of the many and manifold forms of human community.”¹²³

Young also characterises responsibility as a political concept:

“Political responsibility... concerns how things stand in the world.

Whatever the cause of sufferings, they are our responsibility to notice and address.”¹²⁴

These politicised notions of collective responsibility connect to the arguments about circumstantial moral luck and Enoch’s account of duty and penumbral agency in Chapter 4 (Enoch 2011). Arendt’s view is that responsibility, unlike guilt, is something that can be applied collectively with two conditions. First, people can be held responsible for something they have not done. Second, this is because they are members of a group and they can take no voluntary action to dissolve that membership (Arendt 1987). This indissolubility means that there is a sense in which the *polis qua polis* is responsible. In the first instance the group Arendt has in mind is being a member of the German political community. Circumstantial moral luck meant that the German people living under the Nazi regime were living in Germany

¹²³Arendt, H., (1987): 50

¹²⁴Young, I. M., (2013b): 78

at a time that demanded a response. The following responses were morally unacceptable: *this has nothing to do with me, I am not a Nazi, I am not Jewish, I am not a leftist* and so on.

Arendt's point is that everyone was accountable under the Nazis. This political responsibility was real and inescapable. There are two dimensions to the political nature of this collective responsibility. First, because the whole community should choose to take it upon itself to be responsible as individuals and as a collective for the wicked things some of its members have done. In this example, all German citizens ought to have taken it upon themselves to be responsible for their fellow Germans' support for the Nazis. This connects to Feinberg's notion of group liability without fault. Second, because the whole community is collectively responsible in a non-distributive sense for what is done in its name. As far as Arendt is concerned, this is not confined to Nazi Germany. It applies to all political communities which ought to assume responsibility qua political communities, though not guilt, for the actions of its predecessors and for the deeds and misdeeds of its past (Arendt 1987).

This responsibility is both individualistic and non-distributively collective. It is a political responsibility because it is part and parcel of living in a *polis*. Being collectively responsible for things we have not done is the price we pay for living in a community rather than in solitude. According to Arendt, the only way to avoid this collective responsibility is to leave the community one is a member of (Arendt 1987). Since it is impossible to live outside of a community what this actually entails is swapping one community for another and therefore one set of responsibilities for another set of responsibilities. This raises the interesting question of who are the

people who can be said to be exempt from collective responsibility. For Arendt it is outcasts, refugees and stateless people who are not members of any community and therefore cannot be held collectively responsible for anything.¹²⁵ In which case, exemption from collective responsibility comes at a high price.

Arendt's view of our membership of a community goes beyond national boundaries to include shared membership of the human community:

“For many years now we have met Germans who declare that they are ashamed of being Germans. I have often been tempted to answer that I am ashamed of being human.”¹²⁶

This is a reference to our responsibility as individuals and collectively across borders. The actions of the Nazis were not crimes against the German people or crimes against the Jewish people but crimes against humanity. The serious consequence for humanity is that we are all responsible as individuals, suitably interpreted, for the actions of others, and all political communities are collectively responsible both distributively and non-distributively, suitably interpreted, for the actions of other political communities. The ‘we’ that is referred to here is the ‘we’ that is a collection of individuals and the non-distributive collective ‘we’ of political communities.

Collective responsibility is also a political responsibility because it is other-directed. The essential question is not whether the individual is good, but whether she is good for the world she lives in. The centre of interest is not the self, which is a moral

¹²⁵Arendt, H., (1987): 45

¹²⁶Arendt, H. (1954 [1994]): 131

concern, but the world, which is a political concern.¹²⁷ What matters about the world is who is suffering and what people are doing to end that suffering. Non-participation is not an option under these extreme circumstances. People who withdraw from the political realm (*this is not my business*) are not resisters and they are mistaken if they believe their attitude does not have any political consequences. Arendt argues that this attitude facilitated the Nazi's rise to power and their wicked crimes thereafter (Arendt 1987, Arendt 1954/1994).

6.4 *A combined approach.*

In this section of the chapter I discuss concerns with Young's approach to the liability and social connection models of responsibility. In response to those concerns I develop an account of responsibility that applies to both collectives and individuals, which like Arendt but unlike Gilbert confines guilt to individuals (Arendt 1954/1994, Arendt 1987, Gilbert 2002).

Young aims to develop a politicised account of moral responsibility that devolves responsibility to individuals. Her conception of responsibility is intended to empower people to take responsibility for the structural injustices and harms that exist. Individual citizens and groups of citizens are accountable by dint of their membership of the *polis* and their shared humanity. Young and Arendt's accounts of responsibility are meant to do the relational work among people, bringing them together to work towards the common good by addressing injustices and harms suffered by others.

¹²⁷Arendt, H., (1987): 46

I aim to show that we should take a combined approach to the responsibility as liability and responsibility as social connection models. Approaching this as either/or choice between the two models fails to address what the *polis qua polis* owes that its members do not. It also has nothing to say about what to do if individuals do not react as they are supposed to under the social connection model of responsibility. I also aim to find a way of bringing Young's and Arendt's approaches together in a coherent way that provides a plausible account of individual and collective responsibility. In my account the liability and social connection models apply to individuals and to collectives. I will do this by arguing that the social connection model applies to individuals and to collectives as non-distributive responsibility-holders who have a duty to act on their responsibility for structural injustices. If they fail to take up their duty the social liability model applies. Even if they do take up their responsibilities the social liability model still has a role to play *vis-à-vis* the role of political communities *qua* communities in redressing injustices.

An important feature of Young's social connection model is that it is based on a shared responsibility. The responsibility is shared because all those who contribute by their actions to the structural processes that produce injustice share responsibility for those harms. Young explains a shared responsibility as a responsibility that the individual personally bears, but does not bear alone.¹²⁸ The individual bears the responsibility aware that others bear it with her. By acknowledging the responsibility she acknowledges that she is part of an inchoate collective that produces injustice. The individual shares with other individuals a responsibility to dismantle unjust and oppressive structures. The responsibility is shared because many individuals acting together within accepted institutions according to prevailing norms and values

¹²⁸Young, I. M., (2013f): 109-111

produce the harms. Young explicitly contrasts the idea of a shared responsibility with a collective responsibility. The former is a distributed while the latter is not.¹²⁹ A collective responsibility is one where the collective is the responsibility holder without that responsibility distributing to any of its members. This relates to Joel Feinberg's notion of non-distributive collective responsibility discussed in Chapter 4 (Feinberg 1968). The social connection model is based on a shared responsibility where the responsibility is divided up among individuals who each contribute in some indeterminate way to producing unjust outcomes as a result of their actions.

As Young acknowledges, one reason individuals may not take up their responsibility under the social connection model is because they are overwhelmed by the demands it places on them.¹³⁰ The demandingness of Young's social connection model is further increased by her account of structural global injustice, which Young presents as an example of its application (Young 2013d). I shall use the same example to illustrate some problems with Young's account of responsibility, particularly with regard to her distinction between a shared responsibility and a collective responsibility. I will develop an account that is based on a responsibility for justice that applies to individuals and to collectives non-distributively. It will be an account of collective responsibility rather than a shared responsibility.

Young argues that there is much injustice in the world and those of us in economically more developed parts of the world particularly contribute to the production of this injustice. The implication of this for the social connection model of responsibility is that such responsibility is sometimes global. Young thinks we should not seek to divide

¹²⁹*Ibid.* 110

¹³⁰Young, I. M., (2013d): 123-125

and measure this responsibility since it is a genuinely shared endeavour to address these global injustices. In Young's account the attribution of responsibility does not track the distribution of power. The example of global injustice Young has in mind is sweatshops.¹³¹ Sweatshops are an example of structural global injustice that benefits some, like consumers by providing them with cheap clothing and transnational corporations by providing them with a source of cheap labour, while seriously harming those who endure sweatshops. Young refers to the anti-sweatshop movement as an illustration of the social connection model. She characterises it as an international grassroots movement of people coming together to create a public discussion of the injustice of working conditions, leading to action that has had some success in changing global institutions and practices. Young acknowledges that her approach to global injustice and the social connection model of responsibility may lead to "the vertigo of political responsibility."¹³² Our responsibilities as citizens of the *polis* are truly international in character. They are not confined by national boundaries. This chimes with Arendt's account of our responsibilities as being derived from our shared humanity. In this example, individual citizens of the United Kingdom cannot avoid responsibility by claiming that the working conditions of the citizens of Bangladesh or the citizens of China are nothing to do with them. Our common humanity means that it is our business. The vertigo of political responsibility is caused by the demands Young's account places on individuals and groups of individuals distributively when it comes to addressing global injustice. This is not confined to those who benefit from cheap manufactured goods. For example, Young

¹³¹*Ibid.* 125-142

¹³²Young, I. M., (2013d): 124

argues that those who work in sweatshops have a key role to play in organising and mobilising themselves and others to end their oppression and exploitation.¹³³

An important problem with Young's argument is that she has little to say about the role of collectives qua collectives like states, international institutions and transnational corporations, except when she explains why they should not play a major role in dealing with responsibility across borders.¹³⁴ Young's key reason for downplaying the role of states and global and national institutions in this process is that their rules and practices are more aligned with the powers and processes that produce and perpetuate injustice than with those who seek to undermine it. She is of the view that we cannot turn to states and institutions as a means to deliver global justice since they have a vested interest in maintaining the status quo.¹³⁵ This part of her argument ignores the fact that individuals, including Young, also have vested interests of their own.

It is mistaken for Young's individualistic social connection model of responsibility to deny the role played by collectives. In the context of Young's account of structural injustice, it is hard to conceive of any individual or groups of individuals causing as much harm as collectives like transnational corporations. The really large ones have assets and turnovers that far exceed the GDP (gross domestic product) of many nation states in the world today. In terms of power and influence, such transnational corporations are among the most powerful institutions in societies if not the most powerful. This is why an analysis of the injustice of responsibility for global structural injustice should include an analysis of the role of collectives qua collectives like

¹³³*Ibid.* 124-134

¹³⁴*Ibid.* 150-151

¹³⁵*Ibid.* 151

transnational corporations. Opponents of collective responsibility have failed to appreciate two things in adhering to their individualism.

First, that the notion of a corporation cannot merely be reduced to the behaviour of its individual members. According to individualists, the corporation is simply an aggregate of individuals. Under the alternative analysis proposed by my account, collectives like transnational corporations are over and above a mere aggregation of individuals and, unlike in Margaret Gilbert's account, they are conceptually prior to their individual members (Gilbert 2002). As discussed in Chapter 4, collectives like transnational corporations have a tightly focused structure and organisation. Within this structure and organisation policies and strategies are articulated, formulated, discussed, rejected or approved and then implemented. Only the individual members can articulate, formulate, debate and discuss, reject/approve the collective's goals and the means for carrying them out. These individuals are not fictive or abstract; they are people acting within a certain social context, fulfilling certain functions and carrying out certain roles. It is too simplistic to view these people as purely autonomous within the transnational corporation given how its structure and organisation supervenes on them.

Second, Young's account characterises structural injustice as the accumulation of the unintended consequences of individual actions and, therefore, no one single individual agent could be blamed for the collective wrong that might ensue. Theories of individual responsibility imply a basic view of causation in which the only important type of action is one where a single individual can single-handedly bring about harmful consequences either intentionally and/or negligently. Not all actions fall

under this paradigm so, *ex hypothesi*, collective wrongs do not fall under it. For example, three corporations produce carbon emissions by burning fossil fuels (which is a case of global structural injustice in addition to sweatshop labour.) If one were to pose the question regarding each corporation: does it's burning of fossil fuels cause the serious health complications like low lung functioning that are caused by carbon emissions, the answer would be no. It is the accumulation of the unintended consequences of their and many other corporations' individual actions that cause harm. Individualistic theories of responsibility would let all the corporations off the hook. Collectives like corporations have access to very large resources and each of them ought to have foreseen that their burning of fossil fuels could cumulatively cause serious, widespread and lasting harm. The corporation qua corporation can, therefore, be reasonably held culpable if people experienced health problems as a result of their actions.

Young acknowledges that a key problem with the social connection model of responsibility is that it is highly demanding not least when it is applied globally. It is therefore counter-intuitive that she sidelines states and global institutions as part of the campaign against global injustice since this would be a way of reducing the demands placed on individuals by the social connection model. The actions of states and international institutions should not replace the activism of the citizens but in some cases they could be deployed to do the 'heavy lifting' required to pressurise other states and transnational corporations to end their reliance on sweatshop labour.

This illustrates a significant limitation in her preference for a notion of a shared responsibility rather than a collective responsibility. As Young explains it, a shared

responsibility to end structural injustice means that individuals become active citizens who organise themselves to campaign against sweatshop conditions. Individuals acquire that responsibility in virtue of the role they play in perpetuating structural injustice. This argument can also apply non-distributively to collectives like states and international institutions because they not only perpetuate the structural injustice they set the rules of the game whereby the structural injustice comes into existence in the first place. The collective responsibility is non-distributive because it may be the case that no individual member of the collective is personally responsible for the actions of the collective. This is a reason for the collective to be a non-distributive responsibility holder rather than shift the responsibility away from the collective and onto individual citizens.

Young is too quick to dismiss the role of states and international institutions in bringing about global justice. It is states and international organisations like the IMF and the WTO whose rules and practices favour the interests of the more affluent nations of the world and the multinationals associated with those states. These constitute a powerful set of international institutions whose current practices serve the interests of transnational corporations, large national corporations and affluent states. Grassroots action operating through the social connection model against these institutions is an important solution to these problems. It would make sense to direct this activism towards the reform of those states and institutions to promote global justice by deploying reformed international law, states and institutions to change and expand the rules so they better meet the needs of the poorest and most vulnerable people and nations. It is also the case that states have the power to interact with other states to reform and improve the rules and practices of international trade. It is

mistaken to argue that states cannot be expected to change the exploitative systems they benefit from. Activism directed towards collectives like the state can make a difference here and one example of this is the British government being committed to spending 0.7% of its GDP annually on international aid. Collectives qua collectives also mediate between the activist and those who benefit from her activism. They are a necessary means for promoting justice given that social justice concerns the broad patterns of social positions and relationships in society, which requires collective action and that requires organisation. This is why it is mistaken to emphasise the notion of a shared responsibility at the expense of a non-distributive collective responsibility as Young does.

For the reasons I have outlined above we should favour an approach that equally value individualistic and collectivist perspectives. Young rightly develops a theory of responsibility for justice that requires individuals to act in relation to individual wrongdoing and structural injustice. It is mistaken, however, to do this at the expense of a non-distributive notion of collective responsibility that calls on collectives to act as well as individuals.

Young's liability model works in some scenarios but not others. It is appropriate when dealing with cases that are to do with transient individuals relating to each other rather than those cases that are to do with collectives that persist through time as in the case of nations trading with each other on unequal and exploitative terms. It is not clear that the social connection model as Young conceives it can explain or address those cases. The social connection model fails to make clear what the *polis* owes that individuals do not. Bypassing the institutions of the *polis* and overloading individuals

with excessive responsibility creates the problem of the vertigo of political responsibility that Young identifies.

We can solve this problem by returning to David Enoch's conception of penumbral agency discussed in Chapter 4 (Enoch 2011). Enoch's argument that there is an important difference between being responsible and taking responsibility is particularly relevant. According to Enoch, we have a duty to take responsibility for that which falls within our penumbral agency. We can use Young's and Arendt's accounts of responsibility to give us reasons why it is our duty to take responsibility in the way described by Enoch. Under the social connection model individuals and collectives have a duty to take responsibility because they are members of the human community and members of the *polis*, not because these cases fall within the scope of Enoch's concept of "penumbral agency."¹³⁶ If individuals and collectives fail to act under the social connection model then moral liability applies in the form of the liability model. This argument about the social connection and social liability models applies to both individuals and to collectives non-distributively.

Including collectives like states and institutions in our discussions about responsibility as well as individuals gives us another reason to reconstitute the liability model rejected by Young. She thinks that the liability model cannot help us address contemporary structural injustices that have their roots in past acts of injustice. There are non-distributive collective solutions to this problem in the form of states and corporations. The German state's annual payment of reparations to Israel can be used here to illustrate how states can address past acts on injustice under the liability model. Similarly, German companies have paid reparations to Holocaust survivors as

¹³⁶Enoch, D. (2011): 6

financial compensation for the part they played in assisting the Nazi state. This also solves the further problem Young identified with the liability model, namely the language of liability obstructing the goal of social transformation through policy reform to address structural inequalities. If such language is applied in a non-distributive fashion so the liability is attributed to the state or corporation rather than its members, then this leaves individuals to act in the ways prescribed by Young's social connection model, free of the burden of liability.

In this chapter I have developed an account of non-distributive collective responsibility that can be used alongside the Young's notion of shared responsibility. Whereas Young's approach is individualistic, my account applies to individuals and to collectives as non-distributive responsibility holders in both the liability model and the social connection model. The political faculty "par excellence"¹³⁷ for Arendt is action and this means that collective or political responsibility entails political activism or non-passivity at the minimum. Rather than choose between the social connection and liability models we should combine them to provide an account of how individuals and collectives qua collectives take up their responsibilities and fulfil their duties to each other.

¹³⁷Arendt, H., (1987): 50

Conclusion

I. M. Young's central project is to conceptualise our shared individual responsibilities when faced with global structural injustice given that our individual actions enact contribute to producing and reproducing those injustices (Young 2013f). Young's individualistic account misses something important about collective moral responsibility. Problems of global injustice are often caused by structural injustices. In the absence of clear individual causal or moral responsibility, the production of structural injustices suggests a role for a collectivist conception of moral responsibility. In response to Young's analysis I have developed an account of moral responsibility that applies to individuals and to collectives non-distributively. I have been particularly concerned with structural injustice because this is a form of injustice where the harms are serious but are not traceable to individual wrongdoers. In Chapter 2 I clarified the meaning of the concept of structural injustice and explicated other concepts that are important to this thesis. I also discussed Young's liability and social models of responsibility for justice. In Chapter 3 I explained what is meant by moral responsibility, analysed individualistic accounts and then applied those accounts to complex cases of co-ordinated action. I explained the relationship between these accounts and Young's own individualistic account of responsibility. In Chapter 4 I presented Joel Feinberg's taxonomy of attributions of collective responsibility (Feinberg 1968). I also demonstrated how his notion of non-distributive collective

responsibility could be used to reply to individualistic views of complex cases of co-ordinated action. In Chapter 5 I evaluated Margaret Gilbert's account of collective guilt and collective guilt feelings. I also explicated the distinction between guilt and responsibility. I developed the view that there is an instrumental value to guilt since responses like shame, guilt and regret help to register the significance of the harm that has been done. Correctly applied, guilt can have a curative and motivating effect when it comes to motivating people to act. Guilt can be counter-productive, however, forcing people into a defensive posture resistant to the idea that they must take responsibility for some wrong and make good the harm that has been done. My account confines guilt to individuals rather than collectives. In which case, the issue of distribution does not apply. In Chapter 6 I analysed Hannah Arendt, David Enoch and Iris Marion Young's arguments about the political nature of moral responsibility (Arendt 1987, Enoch 2011, Young 2013e). I also developed an account of collective, non-distributive moral responsibility that can run alongside Young's individualistic account of responsibility across borders (Young 2013f). I demonstrated how this approach applies to both her liability model and her social connection model. I develop an account of how we can describe institutions in moral terms and that a particular notion of non-distributive collective moral responsibility does the institutional work that Young's account denies when it comes to responsibility for justice.

My account is not intended to replace individualistic conceptions of moral responsibility. Given the task of mapping the contours of moral responsibility we should be attentive to collectivist accounts as well as those accounts that aim to delineate the nature of individual responsibility. The literature invariably presents the

relationship between individualistic and collectivist accounts as a binary choice. This is mistaken. I have shown that it is feasible to approach this subject in such a way that we can deploy models of responsibility that apply to individuals and to collectives. Collectivist accounts should be used to provide an additional layer or moral responsibility, particularly in cases on structural injustice that lead to some of the most serious, widespread and lasting harms. Given the seriousness of the harms that collectives do and cause it is erroneous to think individual can rectify these wrongs solely as a result of a shared responsibility. There is a place in this schema for a stronger notion of non-distributive collective responsibility that addresses what the *polis qua polis* and other collectives qua collectives must do to rectify the serious harm they cause.

There are at least two areas that can be explored further. The first is to do with responsibility for acts of historic injustice. Many of the structural injustices in contemporary society are caused by past acts of injustice. It would be interesting to research how we allocate responsibility for historic acts of injustice to individuals and to collectives. The process of allocating responsibility in such cases is complicated by the fact that the original perpetrators and victims of these serious wrongs are no longer alive. It does not go unnoticed that in cases like these across many generations the same groups repeatedly benefit from structural injustice while the same groups are repeatedly harmed by the same structures.

The second and related suggestion for further research is to do with acts of commemoration and acts of remembrance. The role of historical memory is crucial here because the collective discussion and retelling of historic injustice is an important

way for differently positioned members of contemporary society to nurture respectful relations with one another. Historical analysis helps us understand how present conditions are structural, why they have arisen and where intervention to change them might be most effective. It would be interesting to research the collective responsibility to deal with the past as memory. One of the ways in which we can bear witness is through our acts of remembrance and acts of commemoration of the past. This should not be taken to imply that our relations to history are primarily a question about justice, i.e. something we owe. It is something that is of value in and of itself.

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